

Terms of Delivery and Payment

Our supplies and services are subject exclusively to the terms set forth below, and the Customer's terms and conditions do not apply even insofar as we have knowledge thereof and effect delivery without reservation. Our terms further apply to all future transactions with the Customer as part of an ongoing business relationship irrespective of whether the applicability of these terms is asserted once more. All contractual arrangements into which we enter with the Customer for the purpose of implementing a given contract must be made in writing, as do changes and amendments hereto.

1. Closing, scope of delivery

- a) Our offers are non-binding in nature unless they specifically provide otherwise or we have expressly declared otherwise in writing. A contract comes into being if and when we confirm an order in writing or execute it.
- b) Such data as may be contained in brochures, catalogs and product specifications, such as images, drawings, weight and measurements, chemical analyses, mechanical properties, microstructures and tempers, etc., are approximations common to the industry unless specifically designated otherwise, and any reference to DIN rules represents a specification – as opposed to a warranty as to certain characteristics.
- c) We reserve all property rights and copyrights to the images, brochures, calculations, estimates and other documents we create, and they must not be shared with third parties (the provisions under section 12 apply). This especially applies to written documents marked “confidential.”

2. Pricing, terms of payment

- a) Our prices are quoted ex works and exclude packaging, shipping, postage, insurance and VAT, where applicable, unless noted otherwise.
- b) In the event that order-specific costs change after the closing (e.g., on account of altered requirements, drawings, specifications, etc.), the parties hereto will agree on an appropriate adjustment.
- c) Unless agreed otherwise, our invoices are due and payable immediately and in full.
- d) The Customer is entitled to withhold or adjust payments on account of counter-claims if and to the extent that such counterclaims are undisputed or have been effectively established.
- e) If we supplied defective goods, the Customer still owes payment for any goods that are objectively free of defects unless partial performance is of no benefit to it.
- f) In the event that we are obligated to render advance performance, and if we learn of circumstances after the closing according to which the Customer's lack of financial resources places our claim for payment at risk, we may, in addition to any statutory claim based on the retention-of-title clause in section 8, bar the Customer from reselling and processing the goods supplied, demand that indirect ownership of the goods supplied be reversed or transferred at the Customer's expense and revoke the direct-debit authorization subject to the conditions of section 8 lit. h). The Customer already, and irrevocably, authorizes us, in the cases set forth above, to enter its place of operations during regular business hours to collect the goods supplied.
- g) In the event of payment default, we may suspend performance until payment is received after placing the Customer on written notice.
- h) We must be reimbursed for all additional justified costs we incur in connection with the completion of orders insofar as they are not covered by previous payments (purchase price).
- i) Payments are deemed to have been made on the day we may freely dispose of the funds in the agreed currency.
- j) Unless another order is specified, payments are applied against the oldest open claim. In the presence of individual claims, payments are applied first to costs and interest and then to the principal.
- k) In the event that the agreed terms of payment are not complied with and/or circumstances arise that cast doubt on the Customer's creditworthiness, we are further entitled to demand that all of our outstanding claims against the Customer will be paid immediately, as well as to rescind any contract we have not yet fulfilled.
- l) In the event that the Customer is in payment default, we are entitled to charge default interest at a rate of nine percentage points above the applicable base interest rate, along with a flat fee in the amount of EUR 40, according to § 288 of the German Civil Code (BGB). We reserve the right to assert further default damages in relations with the Customer, and the Customer is specifically obligated to reimburse us for all costs related to such claims and the collection thereof, including but not limited to the costs of reminder notices and attendant efforts to collect information and payment, attorney fees and other expenditures associated with legal action.
- m) We may assign payment claims to third parties.

3. Delivery period

- a) Delivery periods commence upon our order confirmation, but not before all details of performance have been settled and all other requirements to be met by the Customer have been satisfied, and the same is true for delivery dates. Deliveries may be effected prior to the delivery date or in part unless such early or partial delivery would place an unreasonable burden on the Customer. The delivery date corresponds with the day on which the Customer is notified that the goods ordered are ready to be shipped or, alternatively, the day of dispatch. Unless otherwise agreed and subject to the nature of the contractual relationship, the delivery periods we provide are non-binding in nature.
- b) Without prejudice to any of our rights in connection with the Customer's default, agreed delivery periods and dates are extended or postponed by any period during which the Customer defaults on its obligations. In the event that the Customer fails to accept goods supplied or if the Customer breaches other duties of cooperation, we are entitled to assert claims for damages incurred, including any added expenditures. Whenever the Customer fails to accept goods supplied, moreover, the risk of accidental demise or coincidental deterioration with respect to any goods we are to supply passes to the Customer.
- c) If we are in default, the Customer must set a reasonable grace period and declare that the Customer will refuse acceptance following the lapse of such period, and that the Customer will rescind a given contract prematurely – i.e., before it is entitled to do so; this does not apply to cases in which we refuse performance or remedial performance hereunder.

d) The Customer is obligated, upon our request, to declare within a reasonable period of time whether, on account of the delay, the Customer demands damages in lieu of performance or insists on performance. In the event that a declaration to that effect is not given in a timely fashion, the choice between damages (in lieu of performance) and performance is ours.

e) If the Customer requests in writing a delivery date later than the specified delivery date after the order has been placed, we shall be entitled to charge the customer for all costs incurred as a result of the change (including any price increases incurred, e.g. as a consequence of increased raw material prices or increased labor costs). A postponement of the delivery date must be confirmed by us in writing.

f) With this request for postponement of the delivery date a deposit of 25 % of the invoice value is due, unless otherwise agreed. If the Customer wishes to postpone the delivery date by more than 3 months from the confirmed delivery date, the Customer shall at the same time be required to pay us an additional 10 % of the invoice value in advance for each month of the requested postponement.

g) A postponement of the delivery date can only be accepted if it is no later than

i) 4 months for products of less than 20 tons or

ii) 6 months for products of more than 20 tons and for HSS and Semi HSS rolls (irrespective of weight) before the agreed delivery

date and

settlement of the required advance payment.

A shorter lead time for postponing the delivery date can be agreed in writing. In the event of a postponement of the delivery date the advance payment can be negotiated in detail.

h) In the event of a postponement of the delivery date, we shall be entitled to store the materials and/or products already in our possession at the risk and expense of the Customer. For this purpose, we may also use the services of a forwarding agent or a warehouse keeper. All costs incurred for the postponement and the stored goods will be invoiced to the Customer in advance per month.

i) Customer's cancellations can only be accepted if these are received in writing

i) for rolls >20 tons as well as for HSS and Semi HSS rolls (irrespective of weight), at the latest 12 months before the fixed delivery date and if

15 % of the agreed purchase price is paid;

ii) for rolls <20 tons, at the latest 9 months before the fixed delivery date and if 15 % of the agreed purchase price is paid.

Other costs associated with the order and already incurred to us (for delays, postponements, etc.) remain unaffected by this.

j) Cancellation is excluded in any case if production has already started at the time of receipt of the written notification. We will inform the Customer about this in writing.

4. Force Majeure, other clauses

a) We are entitled to postpone deliveries on account of Force Majeure, labor disputes, lock-outs and measures taken by the authorities for the duration of a given obstruction, in addition to a start-up period, or, alternatively, to rescind a given contract, or any part thereof, with effect for the portion that remains outstanding.

b) For purposes hereof, unforeseen circumstances, such as malfunctions, rejects and reworks, that would place an unreasonable burden on us if delivery were to be made on time, are equivalent to Force Majeure; the burden of proving that such events were unpredictable or entail an unreasonable burden is ours.

5. Reviews, acceptance

a) Whenever the Customer would like us to conduct necessary reviews, it must notify us accordingly, and the nature and scope of such reviews are to be established by the time of the closing.

b) With respect to acceptance, both scope and applicable terms are to be set by the time of the closing. Acceptance occurs at the supply plant and at the Customer's expense immediately following notice of readiness for shipment. In the event that acceptance is not effected in a timely or exhaustive fashion, we are entitled to ship the goods or store them at the Customer's risk and expense. § 640 (1) 3 of the German Civil Code (BGB) applies in cases of the Customer's failure to effect acceptance.

6. Measurements, weights, volumes

a) Goods supplied may deviate from specified measurements, weights and volumes within customary tolerances, pertinent DIN rules and the technical parameters of casting, and such instances of deviation do not constitute defects. Measurements and weights included with our offers and order confirmations are not warranties as to quality.

b) Calculations reflect delivery weights and volumes as determined by us.

7. Shipping and passage of risk

a) Unless otherwise agreed in writing, deliveries will be made "FCA" (Incoterms 2020). This term of delivery also applies even if we agreed to bear shipping costs.

b) Goods reported ready for shipment must be accepted immediately, failing which we may, at our option, ship or store them at the Customer's risk and such cost as may be customary. We may also opt for storage if shipment at our expense is impossible through no fault of our own.

c) In the absence of specific instructions, the choice of the means and vehicle of transport is ours.

d) In the event that we see to the shipment of our goods to the Customer as per agreement, the risk passes to the Customer upon the delivery of goods to the shipper, carrier or such other party as may be tasked with conveyance.

8. Retention of title

a) All goods supplied remain our property (i.e., reserved goods) until any and all claims have been satisfied, including but not limited to any related balance due to us under the business relationship, and this also applies even insofar as payments are made against specially designated claims.

If the Customer is in default, we are entitled to demand that the goods supplied be returned to us at the Customer's expense.

b) In the event that reserved goods are processed or inextricably fused with third-party items, we acquire a title to the resulting product at a rate reflecting the proportion of the goods' value to that of the other items processed or fused at the time of such processing.

c) In the event that our title expires as a result of processing or fusing within the meaning of § 947 (2) of the German Civil Code (BGB), the Customer already assigns to us the ownership rights to the new inventory or object at a rate reflecting the reserved goods' value and will store it for us at no cost. Any resulting co-ownership rights are deemed reserved goods within the meaning of lit. a).

d) Provided that it is not in default, the Customer may sell reserved goods within the regular course of business and subject to its general terms and conditions so long as the claims arising from such resale pass to us in accordance with lit. e) and f). The Customer must not otherwise dispose of reserved goods.

e) The Customer already assigns to us its own claims from the resale of reserved goods, which serve the purpose of security just as the reserved goods do.

f) In the event that the Customer sells reserved goods along with other goods, which we did not supply, the assignment of claims from resale only extends to the amount of the value we assign to the reserved goods so disposed of. With respect to the sale of goods that we co-own, the assignment of claims extends to the amount of such co-ownership shares.

g) The Customer may collect claims from sales pursuant to lit. d) and e) until we revoke such right. We exercise a right of revocation in the cases mentioned in section 2: the Customer is in default, a petition has been filed for the institution of insolvency proceedings or payments were suspended. Then, the Customer is obligated to disclose to us without undue delay the claims assigned and their debtors, provide such additional information as may be needed for purposes of collection, produce all related documents and notify the debtors of the assignment.

h) In the event that the value of existing security exceeds the total claims being secured by more than 20%, we are obligated, to such extent, to release security items of our choice. The Customer must provide prompt notice of any pledge or other third-party interference.

i) As long as we retain the title to reserved goods, the Customer must see to proper storage and insure such goods at its own expense against loss, depreciation, fire and theft as well as water damage while in storage, and it must not resell, pledge or assign them as security, be it wholly or in part, without our prior written consent.

9. Warranty and liability

a) Our liability is limited to cases in which goods supplied deviate from the specifications previously agreed; corresponding arrangements as to quality do not constitute warranties on our part. Unless provided otherwise below, our warranties and liability are subject to applicable law.

b) We bear no liability for the suitability of any goods the Customer orders from us for the purpose the Customer assigns thereto. Insofar as we offer suggestions for the construction of the goods we are to manufacture, it falls to the Customer to assess such suggestions with respect to possible changes in the suitability of such goods for the intended purpose, and our liability is limited to cases for which liability on our part was expressly agreed with the Customer. Furthermore, we bear no liability for any violations of third-party copyrights or other industrial property rights if the goods ordered were constructed in accordance with the Customer's instructions.

c) We are not liable for defects resulting from inappropriate or improper use, customary wear and tear or defective installation or commissioning, nor are we responsible for the consequences of the Customer or third parties conducting improper modifications or repairs. With regard to our products §434 BGB is only partially applicable. The assembly and application is the sole responsibility of the purchaser. Thus, the requirements of §434 BGB regarding assembly requirements and instructions are to be excluded.

Since our products are manufactured individually and customer-related, the criteria according to §434 section 3 sentence 2 - 4 BGB do not apply but the agreements according to our respective order confirmation are valid.

d) The Customer must examine our goods within two days of receipt and give prompt written notice of discernible defects; as for hidden defects, notice must be given upon discovery.

e) We are to be afforded an opportunity to check the defect cited within a reasonable period of time, and the Customer must, without delay, either return to us or make available for our unfettered access any goods cited for defects. In the event that the Customer fails to meet these obligations, or if the Customer modifies the goods cited without our consent, the Customer forfeits any claims based on material defects.

f) Whenever a defect was cited in a timely fashion, and such claim has merit, we will, at our option, repair or replace the goods so cited (remedial performance).

g) In the event that we fail to meet our warranty obligations, if we do not do so within a reasonable period of time, or if our attempt at remedial performance is unsuccessful at first, the Customer may place us on further reasonable notice, within which we must satisfy such obligations. No such grace period is required if it would place an unreasonable burden on the Customer, or if we outright refused to render remedial performance or provide a replacement. Once such grace period has expired to no avail, the Customer may, at its option, demand that the purchase price be abated, rescind the contract in question, itself see to any necessary remedial performance or have a third party do so at our expense. In the event that the Customer or a third party effects remedial performance, the Customer's warranty claims lapse once it has been reimbursed for any necessary costs it incurred.

h) The Customer's claims, if any, based on the expenditures it necessarily incurred in connection with remedial performance, which result from the goods having been relocated after delivery, are excluded if and to the extent that they add to the expenditures unless such relocation is consistent with the intended use.

i) The Customer bears the burden of proof of defects.

j) With respect to claims for damages, our liability is limited to damages we caused either intentionally or through gross negligence, to the exclusion of any liability for other types of negligence, unless we caused damages:

- in the form of injuries to life, body or health;
- through defects concealed in bad faith, or if we provided a warranty as to the quality of a thing; or
- by breaching cardinal contractual obligations.

In cases of slightly negligent breaches of cardinal contractual obligations, our liability is capped at the amount of damages that are

reasonably foreseeable or typical of the underlying contract. Cardinal contractual obligations are those that must be fulfilled if a given contract is to be properly transacted, and on which the Customer typically relies.

k) In the event that the Customer asserts damages in the form of attorney fees incurred, we need only reimburse it for the attorney's fees and out-of-pocket expenses allowed by the Lawyers' Compensation Act (RVG).

l) The Customer is not entitled to be indemnified against third-party claims.

m) Insofar as our liability is excluded or limited, such exclusion or limitation likewise applies to the liability of our staff, employees, legal representatives and agents.

n) Claims for damages and those based on material defects, to which the Customer is entitled in relations with us, expire one year after the goods were delivered to the purchaser, unless the law according to § 438 (1) no. 2 of the German Civil Code (BGB) (structures and any object commonly used therein) and §§ 478, 479 (1) of the German Civil Code (BGB) (rights of recourse) mandates longer periods of limitation, and save for cases of injuries to life, body or health, intentional or grossly negligent breaches of duty on the supplier's part and defects concealed in bad faith. Statutory provisions governing the suspension of limitation periods as well as the suspension and recommencement of such periods are not affected. Claims for damages under the Product Liability Act are subject to the legal statute of limitations.

10. Order-specific manufacturing equipment, cast-in parts

a) Order-specific manufacturing equipment, such as models, templates, core boxes, molds, casting tools, rigs and gauges provided by the Customer are to be shipped to us free of charge. The Customer must ensure compliance of the manufacturing equipment provided by it with contractual specifications or drawings we supplied; absent separate agreements, we are not obligated to check the manufacturing equipment provided, and we may modify the manufacturing equipment supplied insofar as doing so appears necessary for technical reasons and the products are not modified (e.g., changes to the gating system or adjustments to the manufacturing equipment to suit our casting device).

b) The Customer bears the costs of modifying, servicing and replacing its manufacturing equipment, as required for technical or other reasons.

c) We will treat manufacturing equipment with the same diligence that we customarily apply to our own affairs. We bear no liability for the manufacturing equipment's accidental demise or deterioration, and we are not obligated to take out insurance. We may return to the Customer, at its risk and expense, any manufacturing equipment we no longer need or, if the Customer fails to comply with our request for pick-up within a reasonable period of time, store it at customary costs and, after having placed the Customer on reasonable notice, freely dispose of it.

d) Order-specific manufacturing equipment made or procured by us on the Customer's behalf will remain our property even after the cost has been invoiced pro rata. Such equipment will be retained by us for a period of three years after the last casting has been made. If it was agreed in deviation from the foregoing that such equipment should become the Customer's property, the Customer will assume ownership thereof as soon as the agreed price or cost share was paid, with our obligation to keep the equipment safe substituting the formal transfer. Absent good cause, the Customer may terminate this safekeeping arrangement no earlier than two years after the transfer of ownership.

e) The Customer must note any copyrights or industrial property rights related to the manufacturing equipment it provides upon delivery.

f) In the event of rejects produced by manufacturing equipment intended for one-time use through no breach of duty on our part, the Customer must either provide new manufacturing equipment or bear the cost of its replacement.

g) The Customer must supply parts we are to cast true to specifications and free of defects, replacing any rejects free of charge.

11. Product liability and documentation

a) The limitation of liability according to section 9 does not apply to claims under the Product Liability Act and the Product Safety Act.

b) Having purchased products from us, the Customer must fully educate itself about how our products are to be handled, operated and serviced. As an expert, the Customer is familiar with product-specific characteristics, consulting specifications and documentations as needed.

c) The Customer is further obligated to carefully document the products we supply in order that, in the event of damages, it may be ascertained beyond any doubt whether the product causing the damage actually originated with us, or which part of the product caused the damage.

d) The Customer must store such documentation for as long as our products are in operation, but no less than ten years from the time of delivery.

e) In the event that we are sued under the Product Liability Act, the Customer will promptly furnish us with its documentation and any other means of evidence free of charge.

12. Confidentiality

a) The parties hereto will limit their use of all documents (including templates, models and data) and knowledge gleaned as part of the business relationship to jointly pursued purposes, and they must hold such documents and knowledge in strict confidence and refrain from sharing them with third parties, using the same diligence they apply to their own documents and knowledge, if and to the extent that the other party designated them "confidential" or the interest in keeping them confidential is self-evident.

b) The duty of confidentiality does not apply if and to the extent that (i) the information shared is already in the public domain through no breach of this duty of confidentiality, (ii) the Customer already knew the information at the time of disclosure or (iii) the Customer is required by law or official directive to disclose the information.

c) This duty commences upon receipt of the first documents or knowledge and ends 36 months after the business relationship was dissolved.

13. Place of performance, legal venue

a) The courts of Siegen (Germany) have exclusive jurisdiction over any and all disputes arising between the Customer and us although we may pursue legal action against the Customer in any court with jurisdiction over its registered offices.

b) Unless a given order confirmation indicates otherwise, the place of performance for our services is the location of our supply plant. With respect to payment obligations, the place of performance is Siegen.

14. Applicable law

The parties' legal relations inter se are governed by German law, to the exclusion of CISG.

15. Severability

In the event that individual provisions of these terms of delivery and payment, or any part thereof, are ineffective, effective provisions approximating the economic purpose of the ineffective ones are to be installed in their place.