

## **General Terms and Conditions of Sale**

### **I. Scope of application**

1. These General Terms and Conditions of Sale govern all business relations with our contracting partners, including any future contracts, without any new agreement being required for them to be covered by the said conditions. They shall be understood as having been accepted if the contracting partner, in knowledge of the conditions or having received a copy of them, places orders with us or receives deliveries from us, even if no subsequent explicit reference to the terms and conditions be made.
2. Terms and conditions of our contracting partner deviating from our own shall only have an effective bearing on the contractual relationship when an express written agreement to this effect has been made with us. In other respects their application is hereby excluded, without any need of their being declined in the individual case.
3. Our General Terms and Conditions of Sale apply only with reference to businesspersons, juridical persons under public law or special funds under public law as understood by § 310, section 1 of the BGB [German Civil Code].

### **II. Offers, conclusion of contractual agreements**

1. All our offers and cost estimates are subject to change and non-binding. Oral declarations require our written confirmation. Collateral agreements, additions to or modifications of the content of the contract must be expressed in written form in order to be in any way effective. This applies to assurances under guarantee as well. The scope of delivery will be determined by our written confirmation of the order.
2. The object of the contract is exclusively the product sold, with the properties and features and purpose of use as defined by the accompanying product description of the producer. Other or more extensive properties and/or features or purposes of use over and above these shall only be regarded as having been agreed when they have been expressly confirmed by us in writing.
3. Deviations of the object of delivery from offers, samples, trial specimens and preliminary deliveries are permissible based on the specification of the currently valid DIN standards or other relevant technical standards. We beg to refer, in this connection, to section IX. No. 9 of these General Terms and Conditions of Sale. All rights are hereby reserved in respect of modifications of the form and design, provided that this entails no restriction of the contractually envisaged purpose, the change is appropriate and the contracting partner may reasonably be expected to accept it.

### **III. Export regulations**

1. Our products may be subject to export restrictions.
2. In the event of export to a country outside the European Union, the customer will assure in writing and prior to shipment, installation or assembly that products will only be used in the civil sector and not in connection with nuclear technology or any other regulated technology.
3. Additional export control remains reserved. For this purpose, we are entitled to pass on the name and address of customers, suppliers and other persons involved in the execution of the contract to third parties for the purpose of security checks.
4. If customers, suppliers or other persons directly or indirectly involved in the execution of the contract are listed on German, European or US-American sanctions lists, we shall be entitled to withdraw from or terminate the contract. After the declaration of withdrawal or termination, all claims for compensation against us are excluded.

**IV. Prices, terms and conditions of payment**

1. Prices are to be taken as ex works from our Echterdingen depot. All prices are to be understood with the addition of statutory VAT, packaging, freight, postage and insurance. The net value of any order must come to at least EUR 50.00. In the case of orders to a value of less than this amount, we reserve the right to apply an additional small quantity surcharge.
2. In so far as our purchase prices, transport costs, business-related taxes or other costs which have an influence on the individual price shall change unexpectedly between the conclusion of the contract and the agreed delivery date, either contracting party may call for an appropriate adjustment of the price. This also applies to call-offs from framework contracts. A change of price shall be effected to an appropriate amount in keeping with the increase in material costs or wages. Withdrawal of the contracting partner from the contract shall only be permissible if the price increase requested by us exceeds the rise in the general cost of living in the time between the order and the agreed delivery date by a not inconsiderable amount. Not inconsiderable is taken to be an increase in the amount of 20 %.
3. Our invoices are due for payment within 14 days of the invoice date without deduction. Invoices for services are due for payment within 8 days of the invoice date. The timeliness of payment shall be determined by the date of receipt of payment.
4. Invoices are to be paid in EURO to the account specified by us, unless otherwise agreed. Transfer, exchange and other payment fees shall be borne by the contracting partner.
5. After expiry of the payment deadline as defined in section IV. No. 3 above, the contracting party is considered to be in arrears. In the event of default in payment, we shall charge statutory default interest; we reserve the right to claim further damages. For the second reminder, we will charge a reminder fee to the amount of EUR 10.00. In the case of a third reminder, the reminder fee will be increased to EUR 50.00.
6. In case of the customer's overstepping the agreed payment target (as defined or capable of being defined by a calendar date) by more than one month, all other claims that we may have on the contracting party shall fall immediately due for payment. We reserve the right to call for payment up front or the provision of securities, or alternatively to withdraw from the contract, if circumstances come to our knowledge whereby our claims appear to be put at risk. In case of payment arrears, discontinuation of payments by the contracting partner or failure to honour cheques or bills of exchange, any agreed special payment targets, bonus payments or other kinds of discount shall immediately become ineffective. We are not obliged to accept bills of exchange in payment. In case this mode of payment is nonetheless used, the paying in of the cheque shall only be regarded as conditional fulfilment. This shall apply equally in case of the prolonged realisation of a bill of exchange, though our rights based on section VIII of these General Terms and Conditions of Sale shall remain unaffected thereby. Costs and expenses associated with bills of exchange shall be charged to our contracting partner.
7. If the contracting partner falls into payment arrears, we shall be entitled, having set an appropriate deadline, to take back the goods. We may furthermore prohibit the onward sale and further processing of the goods. Recovery of the object of sale by us does not constitute a declaration on our part that we are withdrawing from the contract. In every case we shall be entitled to revoke the direct debit mandate as defined by section VIII. No. 5 and call for advance payments or the provision of securities for any outstanding deliveries.
8. Counterclaims which are contested by us or which have not been upheld at law shall not entitle the contracting partner to withhold payments or to offset his claims against ours.
9. In so far as circumstances shall subsequently come to our knowledge which imply substantial deterioration in the financial position of our contracting partner and which put our payment claims at risk, we shall be entitled to fix a due date for payment of bills of exchange to our credit irrespective of the period they are set to run.

**V. Framework contracts**

1. In the case of orders subject to a framework agreement, we will consider ourselves bound by the agreed prices for the duration of the period specified in the first confirmation of the order. If our contractual partner requests an extension of this period, we may agree to this following a recalculation and resulting adjustment of the prices. Fundamentally our contractual partner has no entitlement to insist on an extension of the duration of orders subject to a framework agreement.
2. The contractual partner is obliged to accept the ordered goods in full by the end of the term of a framework contract and to pay the prices agreed for this. Otherwise, the contractual partner shall be in default of acceptance. Section VI No. 3 shall apply accordingly. The contractual partner shall have an unrestricted obligation to accept and take delivery in this respect.
3. Additional costs caused by a delayed call-off or subsequent changes to the call-off with regard to time and quantity by the contractual partner shall be borne by him, unless he is not responsible for the delay or subsequent change.
4. If the contractual partner is in default with a payment, we reserve the right to adjust the terms of payment agreed in the framework contract and to terminate the framework contract. The costs arising from this shall be borne by the contractual partner.

**VI. Delivery and performance time**

1. Delivery dates and deadlines are considered to have been met if before expiry of the same the object of delivery has left our company premises (or in the case of drop shipments, our delivery works), or if the client has been notified that the goods are ready for dispatch.
2. If the delivery deadline is exceeded by more than four weeks, the contracting partner shall have the right to set us an appropriate subsequent deadline. If we have still not fulfilled the terms of the contract within this appropriate subsequent deadline, the contracting partner shall be entitled, without any further rights, demands or claims of whatever nature (except in cases where we can be shown to have acted of deliberate intent or with gross negligence), to withdraw from the contract by a written declaration to us to this effect. If the contracting partner does not withdraw from the contract in such a case, he shall only be entitled to call for indemnification on grounds of delayed delivery if we can be shown to have acted of deliberate intent or with gross negligence.
3. If dispatch is delayed at the request of the contractual partner or if the contractual partner is in default of acceptance, we shall be entitled, without prejudice to our other rights, to store the products appropriately at the risk and expense of the purchaser. In the event of storage by us, the storage charges shall amount to 0.5 % of the net value of the goods to be stored per expired week. The storage charge is limited to 5 % unless higher costs are proven. We are also entitled to withdraw from the contract and/or to demand compensation from the contractual partner. The damages shall amount to a flat rate of 15% of the net value of the goods, unless the contractual partner proves that a lower damage or no damage at all has been incurred. Notwithstanding the lump-sum compensation, we are entitled to claim compensation for the actual damage incurred.
4. The risk shall pass to our contracting partner as soon as the goods have left our depot, or, in the case of direct deliveries, that of our upstream supplier. If transport is carried out by our vehicles, our liability and that of our employees shall be restricted (so far as permissible by statute) to cases of deliberate intent and gross negligence, as well as to replacement delivery to the exclusion of all further claims. This applies to all business dealings, including postage paid and free door-to-door deliveries.
5. We are entitled to make partial deliveries in reasonably acceptable quantities. In the case of specially manufactured goods, deliveries of quantities that are 10% more or 10% less than the agreed quantity shall be considered permissible.
6. In the case of make-and-hold orders we shall be entitled to produce the entire order quantity (or to have it produced by a third party) as a closed amount. No requests for modification can be taken into account after placement of the order, unless an express agreement has been made to this effect. Call dates and quantities can only be adhered to (provided no agreements to the contrary have been made) within the bounds of possibility based on conditions of delivery and production.

7. The route and means of dispatch shall be, when not agreed to the contrary, at our free discretion. Dispatch shall be made from our depot at cost, against the charge of the expenses required. The goods will not be insured during transport. Transport insurance will only be taken out at the request and at the cost of the contracting partner.

## **VII. Force majeure**

1. Mader is not liable for impossibility of delivery or for delays in delivery if these are caused by force majeure for which Mader is not responsible. Force majeure includes monetary, trade policy and other sovereign measures, strikes, lockouts, operational disruptions for which we are not responsible (e.g. fire, shortage of raw materials or energy), obstruction of transport routes, delays in import/customs clearance and all other circumstances, such as in particular pandemics, which, without being our fault, make delivery considerably more difficult or impossible. This shall also apply if the circumstances occur with upstream suppliers. We shall inform the customer of such circumstances without delay.

## **VIII. Retention of title**

1. All goods delivered shall remain our property (goods subject to retention of title) until the fulfilment of all claims based on the business relationship, based on whatever legal grounds, including any future or conditional claims, e.g. claims based on acceptor's bills.
2. Processing and reworking of the goods subject to retention of title on our behalf as producer shall be as understood by § 950 of the BGB [German Civil Code], without laying us under any obligation. In case of the processing, compounding or mingling of the goods subject to retention of title with other goods by the contracting partner, our co-ownership rights in respect of the new article created shall be in proportion to the invoiced value of the goods subject to retention of title in relation to the invoiced value of the other goods used. If our ownership rights expire as a result of the compounding or mingling, the contracting partner shall already, as of now, transfer to us the ownership rights vested in the new stock or the new article to the extent of the invoiced value of the goods subject to retention of title and shall hold them on our behalf. The co-ownership rights arising as a result shall be regarded as goods subject to retention of title as understood by section VIII. No.1 above.
3. The contracting partner may dispose of the goods subject to retention of title only by way of a regular business transaction and provided that he be not in arrears, on condition that the claims resulting from onward sale be transferred to us in accordance with sections VIII. No. 4 and VIII. No. 5 He shall not be entitled to make any other dispositions for the goods subject to retention of title.
4. Claims on the part of the contracting partner resulting from onward sale of the goods subject to retention of title are already, as of now, assigned to us. They serve to the same extent as security for the goods subject to retention of title. If the goods subject to retention of title are disposed of by the customer together with goods that have not been sold by us, the assignment of the claim resulting from the onward sale shall only be in the amount of the onward sale value of the goods subject to retention of title being disposed of at any time. In the case of the disposal of goods in which we have a co-ownership share in accordance with section VIII. No.2 above, the assignment of the claim shall be considered to apply in the amount of the said co-ownership share.
5. The contracting partner shall be entitled to call in claims resulting from the onward sale until we revoke our consent, which we may do at any time. We will make use of this right of revocation only in the cases detailed in section IV. No. 8 above. On our request, the contracting partner shall be obliged to notify his customers immediately of the assignment to us (provided we do not do so ourselves) and to put into our hands the information or documents required for calling in the claims.
6. The contracting partner is obliged to notify us immediately in case of any pledging of the goods or in case of their becoming subject to the rights of third parties in any way.

7. If the value of the securities to which we are entitled exceeds the value the claims thereby secured by more than 29% (20% reduction in value, 9% one-off exploitation costs in case of insolvency of the contracting partner), we shall be obliged to release securities of our own choice in response to the request of the contracting partner. If we should be liable for VAT in accordance with §§ 170 II, 171 II p. 3 of the InsO [German Code of Insolvency Proceedings], this threshold shall be extended to 48 %.
8. If the contracting party falls into arrears of more than 60 days in respect of a claim due for payment, or if insolvency proceedings on his assets are opened before a court, we shall be entitled to recover the goods supplied by us and subject to retention of title on our own initiative from the premises of the contracting partner and to exploit them ourselves, while having due regard to the contracting partner's interests. Recovery of the goods shall not constitute withdrawal from the contract.

#### **IX. Liability for defects**

1. The contracting partner is obliged to inspect the goods immediately following receipt. Evident defects must be pointed out in writing within seven days from receipt of the goods, other defects immediately on their coming to be detected.
2. In case the goods are to be deliberately incorporated in or mounted on others, the contracting partner is obliged to the full statutory extent, before incorporating or mounting the goods, to investigate them for any possible defects. The partner's obligations under § 377 of the HGB [Handelsgesetzbuch: German Commercial Code] shall remain in force to the full extent, even in cases where the goods have been supplied together with a test certificate or some other kind of material certification.
3. In the event of justified, immediate notification of defects, we may, at our discretion, provide subsequent performance in the form of replacement delivery or rectification of defects in the event of commercial and/or professional use. In the event of the final failure of the chosen supplementary performance, the contractual partner may, at its discretion, reduce the purchase price or withdraw from the contract.
4. If the contracting partner has, in accordance with the nature of the goods and their intended purpose of use, already incorporated the goods in another object or mounted them on another object, he shall be entitled to call for indemnification of the necessary costs of removing the defective goods and the incorporation or mounting of the remedied or subsequently delivered goods free from defects ('costs of disassembly and assembly') only in accordance with the following stipulations:

Necessary costs, as understood by § 439, section 3 of the BGB [Bürgerliches Gesetzbuch: German Civil Code], are only such costs of disassembly and assembly as relate to the disassembly and assembly or mounting of identical products, such as have arisen on the basis of standard market conditions and for which the contracting partner has provided us with documentary evidence through presentation of the appropriate receipts, at least in text form. Any right to advance payment on the part of the contracting partner for disassembly and assembly costs is hereby excluded. The indemnification obligation shall hold good in so far as the associated expenses have not been increased by the delivery's being brought to a place other than the place of fulfilment, except in cases where this relocation is in accordance with the intended purpose of use.

Any further claims are hereby excluded. This applies in particular to indemnification claims based on

- damages not incurred by the goods themselves (consequential damages, as defined by the liability provisions of paragraphs X. No.1 and No.2 of these General Terms and Conditions of Purchase),
  - costs of the direct rectification of a defect by the partner where the statutory conditions for this do not subsist, and
  - disassembly and assembly costs, in so far as the goods supplied by us were no longer present in their original material condition at the time of the disassembly or assembly, or if the goods supplied have been used before the assembly to make a new product
5. Claims based on defects shall lapse 12 months from the completed delivery of the goods supplied by us to the premises of our contracting partner. In the case of the sale of second-hand goods, claims based on defects are excluded.

6. Assurance on our part that the defect is being checked shall not constitute an action that affects the statutory term of limitation. If following receipt of a written communication from the contracting partner, or a personal contact with the contracting partner, we do not respond in writing within three weeks, this is to be understood as implying that we decline to continue the negotiations.
7. The contracting party shall be obliged to give us an opportunity to convince ourselves of the existence of the defect asserted, and in particular to make available to us on request the goods claimed to be defective or samples of the same, if the contracting partner is to have any rights of appeal based on the defect alleged.
8. Claims of recourse on the part of the contracting partner against us shall hold good only to the extent that the contracting partner has not concluded any agreements or goodwill concessions with his customers over and above the statutory claims based on defect.
9. Deviations from samples or earlier deliveries will be avoided, so far as technically feasible. We reserve all rights in respect of changes within the limits of what may be considered acceptable to the contracting partner, especially when these serve the purpose of technical progress and provided that the object of delivery be not substantially modified.
10. An objective defect shall not be considered to exist, in particular, when damage to the goods has occurred after the transfer of risk as a result of inappropriate treatment, above all in a case of inappropriate storage of the goods.
11. We reserve the right, in case of the return of goods not suffering from defects, to make a discount of at least 25% of the invoiced value over and above the transport and packaging costs. All costs incurred by us due to unjustified notifications of defects, e.g. freight, storage, costs for inspections, shall be borne by the contractual partner.

#### **X. Other forms of liability**

1. Claims to indemnification on the part of the contracting partner, for whatever legal reason, especially on grounds of violation of obligations based on the contractual relationship or on illicit actions, are hereby excluded.
2. This exclusion of liability shall not apply to the extent that liability is dictated as mandatory by statute, e.g. as based on the Produkthaftungsgesetz [Product Liability Act], in cases of deliberate intent or gross negligence, in cases of damage to life and limb, on grounds of the issue of a guarantee that the goods possess a specific property or on account of the violation of cardinal contractual obligations. In so far as we may be held responsible for minor negligence in relation to the violation of cardinal contractual obligations, indemnification shall be restricted to the contractually typical damages that were foreseeable at the time of conclusion of the contract, and in terms of amount to twice the value of the delivery. No change in the burden of proof incumbent on the contracting partner is entailed by this.
3. The above limitations of liability shall apply equally in favour of our employees.

#### **XI. Copyright rights**

We retain title and copyright rights in respect of cost estimates, drafts, technical drawings and other documents; these may only be made available to third parties subject to amicable agreement with us. Technical drawings and other documents forming part of an offer are to be returned to us on request. In so far as we have delivered objects based on technical drawings, models, samples or other documents put into our hands by the contracting partner, the latter hereby guarantees that no copyright rights of third parties have been violated by this. If third parties call on us to desist from the production and delivery of objects of this nature, based on recourse to copyright rights, we shall be entitled – without being obliged to examine the legal situation in detail – to desist from all further activities accordingly, and in case the contracting partner should be culpable, to call for indemnification. The contracting partner furthermore shall be obliged to exempt us from all claims of third parties arising from the situation.

**XII. Test components, moulds, tools**

1. If the contracting partner is obliged to provide components for execution of the order, these are to be delivered carriage free to the production site in the agreed quantity, or in other cases in an appropriately greater quantity to allow for rejects, at no charge and without any defects. If this is not the case, the costs occasioned and other consequential expenses shall be charged to the contracting partner.
2. The manufacture of test components, including the cost of the moulds and tools, shall be charged to the contracting partner.
3. Proprietary rights in respect of moulds, tools and other equipment which are required for the production of parts that have been ordered shall be based on the agreements that have been entered into between us. If equipment of this nature proves unusable before fulfilment of the agreed production quantity, the cost of the necessary replacements shall be at our charge. We hereby undertake to hold such equipment in readiness for at least two years from the latest time of use.
4. In respect of tools, moulds and other forms of manufacturing equipment provided by the contracting partner, our liability shall be restricted to due care on our own account. The costs of servicing and maintenance shall be borne by the customer. Our obligation to retain the equipment shall expire – irrespective of the proprietary rights of the purchaser – at latest two years after the last manufacturing operation using the mould or tool in question.
5. We reserve the right to charge for the cost of test components and the tools required for their manufacture (such as moulds, arbors, mouthpieces and the like). Tools required for serial manufacture remain our property in all cases, unless any express agreement to the contrary has been made.

**XIII. Data protection**

1. We beg to advise you that we will process personal data which come to our knowledge in connection with our business connection with our contractual partner either from the contractual partner directly or by way of third parties in accordance with the requirements of the EU General Data Protection Regulation (GDPR) and the German Federal Data Protection Act in its latest version.
2. Information relating to the storage, use and processing of personal data may be found with the help of the following link: <https://www.mader.eu/datenschutz>

**XIV. Place of fulfilment**

1. The place of fulfilment for our services shall be Leinfelden-Echterdingen, or the location of our branch that carries out the delivery.

**XV. Severability**

1. If one of these provisions should be or become null and void, the other provisions shall remain unaffected thereby.
2. If our contractual partner is a businessperson, a juridical person under public law or a special fund under public law, it is considered as agreed that exclusive jurisdiction for all claims which may result from or on the basis of this agreement shall be vested in the court of law responsible for our head office. The same shall apply in relation to persons who do not have any general place of jurisdiction in Germany and persons who have relocated their domicile or regular place of residence outside Germany since the conclusion of the contract, or whose domicile or regular place of residence is unknown at the time when suit is brought. We shall also be entitled to bring suit against our contractual partner at the court responsible for the latter's head office.

**Translator's Disclaimer**

This document is a translation and as such not legally binding. In case of doubt, the German original should be consulted and is to be taken as definitive.