



General Terms and Conditions of Sale of the

WE Kunststoff- Technik GmbH; Kastanienallee 3-5; D-26524 Hage Registered office and registration court: Aurich - HRB 100694 - Managing Director: Wilfried Valpertz; VAT no.: DE 813031040 ; <http://www.we-kunststofftechnik.de>

Art. 1

General – Scope

- (1) Our Terms and Conditions of Sale apply exclusively; we do not accept any Supplier terms and conditions varying from our Terms and Conditions of Sale, except if we expressly agree to them in writing. Our Terms and Conditions of Sale also apply if we accept the Supplier's delivery without reservations even if we are aware of Supplier terms and conditions varying from or contrary to our Terms and Conditions.
- (2) All agreements concluded between us and the Supplier for the purpose of performing this contract shall be included in this contract in writing.
- (3) **Our Terms and Conditions of Sale only apply to entrepreneurs according to Section 310 (1) of the Civil Code (BGB).**

Art. 2

Quote – Quote documents

- (1) For tools (equipment) – unless expressly agreed otherwise – a 1/3 of the price shall be paid net without discounts - when ordering, after checking and when production starts.
- (2) If the order qualifies as an offer according to Section 145 BGB, we can accept this within 2 weeks.
- (3) We shall retain our ownership and copyright of images, drawings, calculations and other documents. This also applies to written documents deemed "confidential". The Customer requires our express written approval before passing this on to third parties.

Art. 3

Prices – Payment terms

- (1) Unless stated otherwise in the order confirmation, our prices are "ex works", excluding packaging; the latter is invoiced separately.
- (2) Statutory VAT shall be included in our prices; its statutory amount shall be shown separately on the invoice on the day of invoicing.
- (3) The deduction of a discount always requires a separate written agreement.
- (4) To the extent that the order confirmation does not state anything to the contrary, the net purchase price (without deductions) shall become due for payment 30 days after the invoice date. The legal provisions regarding the consequences of payment default apply.
- (5) The Customer shall only be entitled to set-off rights if his counterclaims have been legally asserted, are uncontested and have been accepted by us. Otherwise, he shall only be entitled to exercise a right of retention to the extent that his counterclaim is based on the same contractual relationship.

§ 4

Time of Delivery

- (1) The start of the delivery period specified by us assumes the clarification of all technical issues and particularly the **approval of the templates and/ or types for the relevant production.**
- (2) Compliance with the delivery obligation furthermore assumes the timely and correct performance of the Customer's obligation. We reserve the right to the defence of non-performance of the contract.
- (3) If the Customer delays acceptance or is guilty of the violation of other participation duties, we shall be entitled to demand compensation for the damages including additional expenses suffered by us in this respect. We reserve the right to further claims and rights.
- (4) To the extent that the conditions of Art. (3) apply, the risk of an incidental loss or deterioration of the purchase item shall be transferred to the Customer as soon as the latter delays acceptance or payment.
- (5) We are liable according to the legal provisions to the extent that the underlying purchase agreement is a firm deal in the sense of Section 286(2) 4 BGB or Section 376 HGB. We shall also be liable according to the legal provisions to the extent that, as a result of a delivery delay, which is our responsibility, the Customer is entitled to assert that it is no longer in his interest to continue the performance of the contract.

- (6) Moreover, we shall be liable according to the legal provisions to the extent that a delivery delay is due to an intentional or grossly negligent violation of the contract, which is our responsibility. Guilt on the part of our representatives or agents shall be attributable to us. To the extent that the delivery delay is due to a grossly negligent violation of the contract, our liability for compensation shall be limited to the foreseeable, typical damages.
- (7) We shall also be liable according to the legal provisions to the extent that the delivery delay is due to a violation of a material contractual duty. In such a case, our liability for compensation shall also be limited to the foreseeable, typical damages, however.
- (8) In all other instances, in the case of a delivery delay, we shall be liable for each complete week of the delay to the extent of a flat-rate penalty of 3% of the delivery value up to a maximum of no more than 15% of the delivery value.
- (9) The Customer reserves the right to further legal claims and rights.

Art. 5

Transfer of risk – Packaging costs – Return

- (1) To the extent that nothing to the contrary is stated in the order confirmation, delivery shall be "ex works".
- (2) Separate agreements apply to the return of packaging. Generally, in terms of deliveries to commercial customers, transport packaging may be returned to our hauliers as a collecting station for recycling. Customers shall carry out recycling "commercially".
- (3) The exchange of reusable pallets or norm transport containers shall generally be based on the current version of either the "Cologne Pallet Exchange" or the "Bonn Pallet Exchange" at our option.
- (4) If the Customer requests this, we shall insure the delivery using transport insurance. The Customer shall be responsible for the costs incurred in this context.

Art. 6

Liability for defects

- (1) **Defect claims on the part of the Customer require the Customer to comply with his statutory duty to inspect and notify before making a defect claim according to Section 377 HGB.**
It is a prerequisite of all warranty claims that the delivered goods be treated correctly, with care and according to their specified use. All warranty claims are precluded if the parts affected by the defects were changed, not installed according to the specifications or repaired. Compensation is not payable in the case of inappropriate use, and especially if usage is not in accordance with the relevant technical specifications, in the case of interference with the product and regular wear and tear.
- (2) If the item of purchase is defective, the Customer shall be entitled to supplementary performance in the shape of a rectification of the defect or a delivery of a new item free of defects at his option. In the case of a rectification of the defect or a replacement delivery, we undertake to pay all expenses relating to the supplementary performance, including transport, shipping, work and material costs to the extent that these do not increase because the item of purchase was moved to a location other than the place of performance.
- (3) If the supplementary performance fails, the Customer shall be entitled to demand either withdrawal or a reduction at his option.
- (4) We shall be liable according to the legal provisions to the extent that the Customer asserts compensation claims based on intent or gross negligence, including the intent or gross negligence of our representatives or agents. To the extent that we cannot be proven to be guilty of an intentional breach of contract, our liability for compensation shall be limited to the foreseeable, typical damages.
- (5) We shall also be liable according to the legal provisions to the extent that we are guilty of a violation of a material contractual duty. In such a case, our liability for compensation shall also be limited to the foreseeable, typical damages, however.
- (6) To the extent that the Customer is entitled to a compensation for damages instead of performance, our liability in the context of Art. (3) shall also be limited to compensation for the foreseeable, typical damages.
- (7) Liability due to loss of life, bodily injuries or violations of health shall not be affected. This also applies to statutory liability according to the Product Liability Act.
- (8) Unless agreed otherwise, liability is excluded.
- (9) The limitation period for defect claims shall be 12 months from the transfer of risk.
- (10) In the case of a delivery recourse, the limitation period according to Sections 478, 479 BGB shall not be affected. It is five years from the delivery of the defective item.

Art. 7

Joint and several liability

- (1) Liability for compensation exceeding that specified in Art. 6 is excluded – irrespective of the legal nature of the claim being asserted. This particularly applies to compensation claims due to faults at the time that the contract was concluded, other violations of duty or tort claims regarding the compensation of material defects according to Section 823 BGB.
- (2) This restriction according to Art. (1) also applies to the extent that, instead of a claim for compensation for damages, the Customer demands compensation for wasted expenditure instead of performance.

- (3) To the extent that liability for compensation is precluded or restricted, this also applies with regard to the personal liability for compensation of our staff, employees, workers, representatives and agents.

Art. 8
Securing retention of title

- (1) We retain ownership of the item of purchase until all payments from the delivery contract have been received. If the Customer acts in breach of contract, especially if he delays payment, we shall be entitled to take back the item of purchase. By taking back the item of purchase, we withdraw from the contract. After taking back the item of purchase, we are entitled to make use of it. Proceeds from this utilisation shall be set off with the Customer's obligations – less appropriate usage costs.
- (2) The Customer undertakes to treat the item of purchase with care. In particular, he undertakes to insure the tools belonging to us at their replacement value against damages through fire and water and against theft at his expense. To the extent that maintenance and inspection work is required, the Customer shall perform these in time at his own expense.
- (3) In the case of third-party pledges or other interventions, the Customer shall inform us immediately in writing so that we may assert a claim according to Section 771 of the Code of Civil Procedure (ZPO). If the third party is not able to repay the judicial and extrajudicial costs of a claim according to Section 771 ZPO, the Customer shall be liable for the costs.
- (4) The Customer is entitled to sell on the item of purchase in the ordinary course of business. However, he hereby transfers to us all claims amounting to the invoice total (including VAT) of our claim, which he obtains due to selling on the item to consumers or third parties, regardless of whether the item of purchase was sold without or after further processing. The Customer shall be authorised to collect these claims even after the transfer. This shall not affect our right to collect the claim ourselves. We shall however not collect the claim if the Customer meets his payment obligations based on the proceeds received, does not delay payment and particularly does not file an application for insolvency and/or if bankruptcy does not apply. If this is the case, however, the Customer shall provide us with the details of the transferred claims and their debtors, provide all information required for collection, hand over the relevant documents and inform the debtors (third parties) of the transfer.
- (5) Any processing or changes carried out by the Supplier are carried out for us. To the extent that the item of purchase is processed with other items not belonging to us, we shall obtain co-ownership of the new item according to the proportion of the purchase item's value (invoice total including VAT) in relation to the other processed items at the time of the processing. In all other cases, the same shall apply to the processed item as to an item of purchase delivered subject to a retention of title.
- (6) To the extent that the item of purchase is mixed with other items not belonging to us, we shall obtain co-ownership of the new item according to the proportion of the purchase item's value (invoice total including VAT) in relation to the other processed items at the time of the mixing. If the mixing is performed so that the Supplier's item can be regarded as the main item, it is agreed that the Supplier shall transfer a proportionate co-ownership to us. The Supplier shall maintain sole ownership and co-ownership for us.
- (7) In order to secure our claims, the Customer also transfers those claims to us, which emerge against third parties in terms of a connection between the purchase item to a property.
- (8) We undertake to release the securities to which we are entitled at the Customer's request to the extent that the realisable value of our securities exceeds that of the claim to be secured by more than 10%. We shall be entitled to select the securities to be released.

Art. 9
Jurisdiction – Place of performance

- (1) To the extent that the Customer is a businessman, our place of business shall be the exclusive jurisdiction. However, we are also entitled to assert claims against the Customer at his place of residence.
- (2) The law of the Federal Republic of Germany shall apply excluding UNCISG.
- (3) To the extent that nothing to the contrary is stated in the order confirmation, our place of business shall be the place of performance.