

General Terms of Business of WALLRAM Hartstoff- und Werkzeugtechnik GmbH

I. Validity

1. These General Terms of Business are valid for all contracts – including future ones – with companies and legal persons according to general law and public law relating to special assets concerning supplies and other services, including contracts for work, consulting contracts, commission processing and the supply of acceptable and non-acceptable goods. The purchasing conditions of the buyer shall not be accepted.
2. Our offers are not binding.
3. Determinate for the interpretation of commercial clauses are always, when in doubt, the "incoterms" in their latest version.

II. Prices and Payment

1. Our prices are ex-plant, including loading, but excluding packaging and unloading. Value Added Tax will be added at the current legal level. Unless something else has been agreed upon, our pricelist, valid when the contract is concluded, is determinate.
2. In case nothing else is mentioned in our invoices, the purchase price is due immediately upon supply without a cash discount and must be paid such that we have access to the funds on the due date. All costs involved are for the account of the buyer. If we accept a bill of exchange, the costs and the discount amount charged by our bank shall be reimbursed.
3. The buyer will be considered in default at the latest 10 days after our claim is payable without a reminder being required. If the due date is exceeded, at the latest when in default, we shall charge interest in the amount of eight percentage points above the basic interest rate. The assertion of further damages due to the delay remains reserved.
4. If, after conclusion of the contract, it becomes apparent that our claim for payment is endangered due to inability of the buyer to pay, or if the buyer is in default with a not inconsiderable amount or if there are other occurrences which point to a considerable deterioration in the payment ability of the buyer after conclusion of the contract, we have the rights granted by § 321 of the German Civil Code. We are then permitted to make all claims payable which are not yet due according to our current relationship with the buyer. If we have accepted bills of exchange, we can require their immediate redemption upon returning the bills.
5. A right of retention and a possibility of offset are available to the buyer only insofar as his counterclaims are uncontested or are legally binding.
6. Should taxes or other third party costs which are included in the agreed upon price be changed later than four weeks after conclusion of the contract, or should they be new, then we are entitled to make a price change in the related amount.

III. Delivery Times

1. Statements to delivery or fulfillment times (delivery dates) are approximate. Delivery or fulfillment times (delivery times) begin with the date of our order confirmation and are valid only under the requirement of timely clarification of all details of the order and the possibility of using the drawings provided by the buyer as well as the timely fulfillment of all commitments of the buyer as, for example, the presentation of all official certificates, presentation of letters of credit and guarantees or advance payments. When there are additional or expanded orders later or when necessary additional work is required, the agreed upon due date will be extended accordingly.
2. Our obligation to supply is subject to the proviso of correct and timely supplying to us unless we are to blame for the incorrect or delayed supplying.
3. Delivery times have been met when the goods have left our plant by that time or have been reported as ready for delivery. Insofar as an acceptance is required, the acceptance date is determinate – except when acceptance is refused – or, alternatively, the report of readiness for acceptance.
4. Should the shipment or acceptance of the goods be delayed for reasons caused by the buyer, any costs incurred by the delay shall be charged to the buyer.
5. Should the delivery time not be met due to force majeure, labor disputes or other occurrences which lie outside our influence, the delivery time shall be extended appropriately. We shall inform the buyer about the start and end of such occurrences as soon as possible.
6. In the case of default in delivery, the buyer can set us a reasonable extension and, after expiry with no results, withdraw from the contract insofar as the contract has not yet been fulfilled. Damage claims in such cases shall be according to Section VII. of these conditions.

IV. Transfer of Risk, Acceptance

1. The risk is transferred to the buyer when the goods have left the plant, also when partial deliveries take place or we have taken over other services such as shipping costs or delivery and installation. If the delivery is delayed or does not take place due to conditions outside of our control, the risk is transferred to the buyer on the day of the report of readiness for shipment.
2. We have the right to make partial deliveries in reasonable amounts.
3. Insofar as there must be an acceptance, that is determinate for the transfer of risk. It must take place immediately on the acceptance date, alternatively after our report on the availability for acceptance. The examination and acceptance must take place in our plant. The results of the material audit to take place in our plant are determinate for the assessment of whether any special quality requirements have been adhered to. The buyer may not refuse acceptance if there is only an unimportant defect. If the acceptance is delayed without our responsibility, acceptance will be considered as having taken place two weeks after our report on the readiness for acceptance.
4. Tools or forms which we have made or obtained to fill the contract remain our property. The costs for their production or obtaining will be carried by the buyer independent of the fate of a possible additional supply contract relating to them. The buyer retains the risk for his tools or forms in our possession.

V. Retention of Title

1. Full legal and equitable title and interest in all and any products supplied to the buyer shall remain with us and shall not pass to the buyer until we have received payment in full of all amounts due and owing from the buyer to us for the time being, including any interest accruing and owing to us and from time to time in respect of all such products and all other products supplied by us to the buyer at any time.
2. During such time as title in the products remains with us, the buyer shall store or otherwise keep the Products in such a way as clearly to indicate at all times that the products are owned by us and shall not remove obscure or delete any mark placed on the products by us which may enable the products to be identified.
3. If during such time as title in the products remains with us, any of the products are incorporated in or attached to or used as material for or in the manufacture of other products the property in the whole of such products shall vest in and remain with us and the buyer shall hold such products as bailee of and to the order of us until we have received payment in full in respect of the products and all our rights in relation to the products shall extend to such products.
4. During such time as title in the products remains with us, the buyer shall have power to deal with or use the products (including other products in which the products are incorporated) as fiduciary bailee of us in the normal course of its business and to dispose of the products or such products by way of bona fide sale at full market value.
5. If the buyer shall sell any of the products it shall hold all the proceeds of sale as trustee for us and shall (until payment of amounts due to us) place such proceeds in a separate

incorporating the products, it shall hold so much of the proceeds of sale as relate to the products as trustee for us and shall (until payment of amounts due to us) place such proceeds in a separate bank account and hold the same to the order for us.

6. Upon any such sale by the buyer of the products, all rights which the buyer may have against the purchaser of them shall automatically vest in us. The buyer shall indemnify and keep indemnified us in respect of any proceedings action or claim of any nature whatever made or brought by the said purchaser against us in respect of the products.
7. Without prejudice to any other rights or remedies arising out of any breach of contract by the buyer we shall be entitled to repossess all or any of the products and to take possession of all or any of the products incorporating such products if in our opinion the payment for the products is in jeopardy. For the purpose of any repossession pursuant to the above clause, we or our agent shall be entitled to enter upon any relevant land or buildings with such transport as may be necessary. All costs incurred by us in such repossession shall be borne by the buyer.

VI. Defects as to quality and defects of title

We warrant in case of defects as to quality and concerning the shipment, under exclusion of further claims – subject to Section VII. – as follows:

1. Defects as to quality must be reported immediately in writing, at the latest 7 days after delivery. Defects as to quality which cannot be discovered within this time in spite of the most careful inspection are, after immediately stopping possible use, to be reported in writing as soon as possible, at the latest within 7 days after discovery. In particular, the buyer is required as part of his receiving control to check the exact tool geometry as well as to perform test manufacturing.
2. We have a choice of repairing the defects or supplying defect-free goods (late fulfillment). When this is unsuccessful or late fulfillment is refused, the buyer can, after the end of a reasonable period, withdraw from the contract or reduce the purchase price. If the defect is not considerable or the goods have already been sold, worked on or redesigned, the buyer has only the right to reduce the price. Replaced parts become our property.
3. The buyer must give us the necessary time and possibility to make all repairs we deem necessary or to supply defect-free goods. Otherwise, we are relieved from responsibility for the ensuing results. Only in urgent cases of danger to plant security or to prevent disproportionately larger damages, whereby we must be informed immediately, does the buyer have the right to remedy the defects. We shall take over costs in connection with late fulfillment only insofar as they are reasonable in the individual case, as a maximum, however, the value of the goods.
4. After completion of an acceptance of the goods, the buyer cannot claim defects as to quality which could have been determined by the acceptance. If a defect remains unknown to the buyer as a result of negligence, he can only exert rights because of this defect if we have fraudulently remained quiet or a guarantee has been given for the quality of the item.
5. If the buyer does not give us without delay the possibility of satisfying ourselves about the defect as to quality, does not present the goods especially upon request or does not provide immediately any samples for testing, he loses all rights because of the defect.
6. No warranty will be given in the following cases: unsuited or improper usage or unprofessional improvement, faulty assembly or start up by the buyer or third parties, natural wear and tear, faulty or negligent treatment, improper maintenance, unsuited methods, defective assembly or construction work, unsuited building grounds, chemical, electro-chemical or electrical influences – insofar as they are not our responsibility. The same applies to any changes made to the goods without our advance agreement. There can be no claims insofar as the defects result from specifications provided specifically by the buyer, for example in the form of drawings.
7. Insofar as it is determined that we are responsible for the infringement of commercial protection or copyright laws, we shall either, at our choice, protect the rights of the buyer or modify the goods in a manner acceptable to the buyer so that the protection rights infringement no longer exists. If this is not possible under economically reasonable conditions or in a reasonable time, then both parties to the contract have the right to withdraw from the contract.
8. Our obligations mentioned in Section VI.8. are settled subject to Section VII.2 in the case of protection or copyright infringement. They exist only when the buyer informs us immediately about the assertion of protection or copyright infringement claims, the buyer supports us to a reasonable extent in warding off any claims made or makes possible the realization of the modification activities according to Section VI.7, we retain the right to take all defensive measures including out-of-court settlements and the legal defect does not arise from an instruction by the buyer.

VII. Liability

1. We can be held responsible for violation of contractual and non-contractual requirements, especially due to impossibility, default, default in the preparation of the contract and unauthorized actions – also for our senior staff and other involved persons – only in the case of intent and gross negligence, limited to the foreseeable typical contractual damages at the time the contract was concluded. This also applies to suggestions and consultations before or after conclusion of the contract or for violation of other secondary requirements. Incidentally, our liability is also excluded for damages due to defects or their consequential damages.
2. These limits do not apply to a culpable violation of essential contractual requirements, insofar as the attainment of the contractual purpose is in danger, by culpably caused damage to life, body and health and also not when and insofar as we have taken over the guarantee for the quality of the goods delivered, as well as in cases of inescapable liability according to the product liability law. The burden of proof is not affected by this.
3. Contractual claims which the buyer has against us on the occasion of and in connection with the delivery of the goods come under the statute of limitations one year after the delivery of the goods. Not affected by this remains our liability from breach of duty due to intention and gross negligence, culpable damage caused to life, body and health as well as statutory limitations according to §§ 478, 479 BGB.

VIII. Copyright and Use of Software

1. We retain all property and copyrights on samples, cost estimates, drawings and similar information whether of a physical or non-physical nature. They must not be made accessible to third parties.
2. The buyer assumes the responsibility that the rights of third parties will not be violated by the use of the drawings, samples and other supporting items supplied by him.
3. Insofar as software is contained in the scope of delivery, the buyer will obtain a non-exclusive right to use the software supplied to be used only with the item as intended. Specifications of the manufacturer or copyright remarks may not be changed or removed. All other rights to the software and the documentation, including copies, remain with us or the supplier of the software.

IX. Applicable Law, Jurisdiction

1. In the case of deliveries from our plant, the place of fulfillment is the location of our plant, for other deliveries it is our headquarters.
2. German law applies in addition to these conditions for all legal relationships between us and the buyer. The UN Convention on Contracts for the International Sale of Goods of 1980 (CISG) does not apply.
3. Place of Jurisdiction is for both parties in D-Herborn. We may also file an action at buyer's headquarters.