



General Terms and Conditions

I. General terms

1. Following terms are valid for all our consultations, offers, sales, supply of goods and services and for all present and future legal relations between our clients and us; this shall not apply if our client is a consumer within the meaning of section 13 BGB. Opposition to any of our client's purchasing terms which wholly or partially conflict with our terms or legal regulations is hereby explicitly stated. Even if we supply goods or perform work in awareness of conflicting terms and conditions, these will not become part of the contract. If our terms and conditions were not sent to the customer together with the offer or if they were not handed to him on some other occasion, they are nevertheless applicable, if he was or must have been aware of such due to a prior business relationship.
2. **No oral collateral agreements exist. Any separate agreements at variance with these terms and conditions, in particular such that were agreed with our commercial or other employees, shall not be binding unless we confirm them in writing. This shall not apply if you have made us a written offer or if we have specifically assured you that a certain condition will be met.**
3. Our offers are non-binding. By placing an order, Client declares his binding wish to purchase the item(s) ordered. The offer shall not be deemed accepted until the order confirmation is despatched or the goods delivered. There must be a written record of any ancillary agreements or warranties.
4. Our offers, order confirmations and the associated documentation shall as a rule represent the finalized record of the nature of the object of the contract. This does not mean that a guarantee within the meaning of section 443, German Civil Code BGB, is given.

II. Prices

1. Our prices are net-prices in Euros (€) ex works and do not include turnover tax or costs of packaging and freight/transport.
2. Unless specifically agreed otherwise, prices are indicated by our last universally valid price-list. Prices from our price-list apply only for the usual layout and size/measurement as to our catalogue.

III. Deliveries and delivery times

1. We shall not be held responsible for delays if our client fails, or is too late, in the fulfilment of his duty to collaborate, particularly if he is responsible for obtaining official permits, execution plans and specifications documents for the object of the contract, for clarifying all technical details and making down-payments.
2. If, when the contract has been signed, there is reason to believe that the client's ability to meet his obligations is in jeopardy, e.g. if his payments are delayed or suspended, if application has been made to initiate insolvency proceedings, current assets have been transferred by way of security, or if banks, financial institutions or loan insurers have given a poor rating, we are entitled to refuse performance and, if a period of time set for the provision of securities in the shape of bank guarantees or bonds or advance performance passes without result, may withdraw from the contract and/or demand compensation pursuant to legal regulations. No period for performance need be set if it is obvious that our client's capacity is endangered.
3. Our confirmed delivery dates are non-binding despatch times. If it is possible to split an order, we are entitled to effect part deliveries and, if advance notice is given, to deliver ahead of schedule. Deliveries into countries other than Germany are only performed after payment in advance.
4. If, due to circumstances beyond our control, difficulties and delays arise or we are unable to complete the orders accepted, we are entitled to postpone supplying the goods or delivering the remainder or part order until the hindrance has passed, or we may withdraw from the contract in whole or in part without thereby entitling the client to claim damages. Circumstances beyond our control include official interventions, operational breakdown, strikes, lock-outs, work stoppages caused by political or economic conditions, lack of necessary raw materials and operating supplies, shortage of materials, energy supply problems, transportation delays due to traffic disruptions or inevitable events which affect our business, that of our suppliers or that of third parties on whose operations we depend to maintain functions at our own works. The aforesaid shall likewise apply if we are already behind schedule when such events occur.
5. Our client may not set a grace period for performance until more than 2 weeks have passed since the agreed date for delivery. This grace period must be reasonable, which will as a rule mean 2 weeks. If this grace period passes without action, our client may withdraw from the contract. No claim for damages for violation of duty shall be admissible unless we have acted with gross negligence or worse or there has been injury to life, limb or health.

IV. Despatch and transfer of risk

1. The object of the contract shall be despatched by us ex works at our client's risk, even if freight and other costs are charged to us. We shall insure the contractual object against transport damage only at our client's expense and following his specific written instructions.
2. The collection of the contract object by EURACRYL on behalf of the customer and from the customer's address is at our client's risk, even if freight and other costs are charged to us. We shall insure the contractual object against transport damage only at our client's expense and following his specific written instructions.
3. Risk passes to the client when the object of the contract is handed over to him, the first carrier or the forwarder. The aforesaid shall apply likewise to each part delivery and whenever we are paying transport costs.
4. If our client wishes dispatch to be delayed, or if he delays acceptance, risk passes to him upon notification that the goods are ready for dispatch. The contractual object will then be stored on behalf of and for account of our client.

V. Retention of title

1. Until all debts owed by our client, including receivables which fall due in the future, have been paid in full the contractual object shall remain our property. This shall apply likewise to payments on specifically named receivables until the debit balance of a current account has been settled.
2. Our client shall store goods covered by retention of title in appropriate manner, separate from other objects, specifically labelled if that is our request, and shall insure them against damage, destruction and loss. If so requested, our client shall present evidence of the appropriate policy. Our client hereby assigns to us in advance his claims under the insurance contracts to the value of the property to which we retain title and agrees that said sum be disbursed to us. We are entitled to collect the property to which we retain title and, if necessary, to authorize others to enter the site and premises of our client.
3. Our client is always, subject to revocation and provided that he discharges his obligations to us in agreed manner, entitled to sell in the normal course of business dealings property to which we retain title. In such cases or when said property is delivered to a third party, irrespective of its value or condition, or is fitted into a building, the client herewith assigns in advance and until such time as he shall have fully paid all his debts to us from the supply of the goods, all accounts receivable from his customer arising from the sale, delivery or fitting of the goods, including all ancillary rights and any claims for damages which he may have, up to the invoiced value of the goods we have supplied.
4. If property to which we retain title is treated or processed, mixed or reshaped, such processing or treating, mixing or reshaping will be undertaken for us, however without warranty. If the client processes same with other objects which are not our property, we shall part-own the new object thus created in the ratio of the value of our aforesaid property to the other processed objects at the time of processing. If property to which we retain title is blended or mixed with other objects we shall become part-owner and our pro rata share will correspond to the value of said property at the time of mingling.
5. In cases where assignment is prohibited upon resale, fitting or failure to pay on time, our client is obliged to inform his third-party buyer that advance assignment has been made. If property to which we retain title is sold to a third party together with other objects, our client shall itemize the goods on the invoice accordingly. If bills have not been itemized, the part of the total price billed which corresponds to the invoice value of our supplies is assigned to us. The above retention of title shall remain in existence if individual sums owed to our client by his third-party buyer are entered onto a current account. In such case our client herewith assigns to us in advance his credit balance on such account. If the client fails to pay on time, we are entitled to collect the assigned receivable directly from the third-party debtor.
6. Our client is not permitted to dispose of the property to which we retain title in any unusual way such as pledging, assigning by way of security or transferring it. Our customer shall inform us at once if third parties seize the objects belonging to us and if any claims are asserted such as e.g. attachment and any other form of injury to our property. He shall pay the costs of action to protect our title ("Interventionsklage") if the seizure is his fault.
7. If the value of the total collateral arising from the business relationship exceeds our receivables by more than 20%, we are obliged, if the client so requests, to re-transfer equivalent securities. We shall make our own selection of securities to be re-transferred.



VI. Payments

1. Invoices are, unless otherwise agreed, payable in full in the agreed currency within 30 days of invoice date. A prompt payment discount of 2 percent is granted only if payment in full is effected within 14 days of invoice date; this does not apply to discounted goods.
Further this does not apply to service contracts, especially to repairs and grindings. In those cases invoices are payable within 14 days of invoice date without deduction.
Deliveries into countries other than Germany are only performed after payment in advance.
2. Payments are effected only when the amount is irrevocably credited to our accounts. Bills of exchange and cheques are accepted on account of performance only, and upon specific agreement. In all cases any discount and bill charges will be charged to our client.
3. We are at liberty to choose whether incoming payments are used to settle the oldest or the least secured obligation.
4. Part deliveries will be billed at once and fall due for payment individually, irrespective of when the entire order is completed and delivered. Down-payments for new contracts will, unless otherwise agreed in writing, be offset against the oldest part deliveries.
5. It is not permissible to offset payments against counterclaims unless such have been legally pronounced non-appealable or are counterclaims recognized by us. The aforesaid shall apply likewise to any rights of retention asserted in respect of amounts stated in our invoices.

VII. Compensation and withdrawal

1. If the client fails to meet the agreed deadlines for payment, we are entitled to the rights named in section 288 BGB (assertion of claim for interest on arrears). We are moreover entitled to agree new periods for payment in respect of future goods and services.
2. If our client falls behind schedule with the acceptance of goods or services or if his payments are in arrears, we are entitled, after setting a reasonable grace period, to withdraw from part or all of the contract and/or to claim damages equivalent to 20% of the purchase price, subject to proof that actual damage was in fact higher, and in particular to claim the costs of return, unless the client can prove that the loss is smaller. No grace period is required if, after the contract has been concluded, there are signs that the business capacity of our client is jeopardized within the meaning of par. III.2.

VIII. Warranty/ Liability for defects

1. The finally agreed qualities of the object we have undertaken to supply are always those set forth in the contract clauses agreed with our client and not in any other advertising statements, brochures, consultations or similar. These do not constitute the provision of a guarantee e.g. within the meaning of section 443 BGB.
2. Our liability to the exclusion of further claims for defects in goods sold, and for goods exchanged (in the scope of section 480 BGB) is as follows:
 - a. Our client is obliged to make a conscientious inspection of the object of the contract as soon as it is received on the premises and if necessary to take random samples. Complaints relating to obvious defects are to be made and specified in writing as soon as the contractual object arrives and before it is used or at the latest within 2 weeks of arrival. Even if he has a complaint, the client is obliged to accept the object of the contract. The object is to be stored appropriately and only returned to us if we specifically request it.
Defects which are not initially recognizable, even during a thorough inspection, are to be notified in like manner as soon as they have been discovered. If the complaint is not lodged in correct form and/or within the given period, the contractual object is deemed accepted.
 - b. Our client shall allow our authorized inspector the opportunity to view and examine the contractual object about which there is a complaint. Otherwise all warranty claims shall be forfeit
 - c. Generally, claims for defects/warranty become statute-barred in one year, unless a longer warranty period is demanded by law.
 - d. We offer no warranty if the contractual object has not been used and treated correctly. Warranty claims are also forfeit if the contractual object is damaged or destroyed by incorrect handling or storage following passage of risk to the client. Usage at variance with our notes or guidelines which are part of the contract will cause all warranty claims whatsoever against us to be forfeit.
 - e. Deviations in dimensions and materials which are customary in the trade and/or determined by manufacturing processes constitute no grounds for complaint about the contractual object. Tolerances are within limits set by DIN standards, if they exist, and our works standards.
 - f. Defects are remedied by our choice of repair or replacement. Our client shall grant us a reasonable period of time and the opportunity to remedy the defect(s). If this is refused, all warranty claims

whatsoever against us shall be forfeit. If several attempts to remedy defects fail, our client may withdraw from the contract or demand a price reduction. Further claims against us or our authorized officers, for whatsoever legal reason, are excluded unless we acted with gross negligence or worse or there is injury to life, limb or health.

- g. No warranty is granted for customized products made to specifications, calculations or design drawings supplied by our client if the defects are caused thereby..

IX. General Liability

1. Unless expressly provided otherwise herein, irrespective of legal basis, we are not liable for damages occasioned by:
 - a. wilful intent
 - b. gross negligence on the part of the owner / executive body or senior employees,
 - c. culpable fatal injury or culpable injury to body or health,
 - d. defect that the Seller has either fraudulently concealed or has guaranteed to be absent,
 - e. defect in the item where liability is required by the Product Liability Law (Consumer Protection Act) for personal injury or damage to property for private use.
2. In the case of negligent violation of substantial contractual obligations, we are also liable for gross negligence by its non-managerial employees and for minor negligence, this being limited to reasonably foreseeable damages typical to this kind of contract.
3. To the extent that we are liable under subsection 2, our liability shall not exceed the liability limits of our business liability insurance policy.
4. We hereby disclaim all further liability.

X. Data Protection

1. We may save and process any data relating to the Customer, to the extent necessary for the purpose of the execution and implementation of the sales contract and as long as we are required to keep such data in accordance with applicable law.
2. We shall have the right to submit personal data relating to the Customer to credit agencies, to the extent necessary for a credit check subject, however, to the Customer's consent in each individual case. We shall neither make available any personal data of the Customer to other third parties without the express consent of the Customer, except to the extent that we are required to disclose any data pursuant to applicable law.
3. We shall not be permitted to collect, submit to any third party or otherwise process personal data of the Customer for any purpose other than those set forth in this Section.

XI. Other provisions

1. Claims which our client may have upon us as a result of the business relationship are in no way assignable.
2. If one of the provisions stated in the aforesaid be legally invalid, this shall not affect the validity of the remainder of the provisions and the contract. Any provisions which may become invalid shall be replaced by new clauses which aim to produce an equivalent business effect. To the extent that certain provisions are not elements of the contract, the contents of said contract shall be guided by legal requirements.
3. The legal relationship between parties is governed exclusively by German law. The UN Convention on Contracts for the International Sale of Goods shall not be applied in any way.
4. Inasmuch as the client is a merchant within the meaning of the German Commercial Code, or a legal person in the sphere of public law or special funds governed by public law, place of performance and sole place of jurisdiction for supply and payment and for any disputes which may arise between the parties is where our company has its main registered office. If at least one of the contracting parties has no general place of jurisdiction within the Federal Republic of Germany, the sole place of jurisdiction shall likewise be where our company has its main registered office.

As at: 10/2012