

General remark

This GTC document is not valid for the sales of extrusion lines or other machinery parts. The CTC for machinery parts are published under the name "GTC-M".

1. Validity

- 1.1.1 These T&Cs apply for all contracts for goods and services including consultancy services, provided that they are not excluded or modified in writing in a given instance, and if they are excluded or modified in a given instance, this shall not have any impact for the business relationship in the future. They shall also apply for future transactions in which no express reference is made to them, provided that the Buyer has been offered an opportunity to inspect them for an order confirmed by the Seller at an earlier stage.
- 1.2 The T&Cs of the other party to the contract shall not be obligatory, even in those cases in which we do not expressly reject them.
- 1.3 In so far as the other party uses T&Cs which likewise contain a clause rejecting the application of other T&Cs, the contract shall be based upon the statutory regulations and preference shall be given to those parts of the T&Cs which are identical with provisions used in the T&Cs of the other party.
- 1.4 Should individual provisions of the T&Cs be or become invalid, this shall not affect the validity of the remaining provisions.

2. Offer, Conclusion and Agreement of formalities

- 2.1 All our offers are subject to change without notice in that they can also be revoked even after they have been accepted, but in the event that they are to be revoked after acceptance, they shall have to be revoked straight away after acceptance.
- 2.2 If the other party offers to enter into a contract, a contract shall only materialise on the basis of declarations of acceptance from us in writing, e-mail or sent by fax, telex or telegraph, and to be more precise, on the basis of the content of the declaration of acceptance.
- 2.3 A written or other formality required by these T&Cs cannot be eliminated by tacit agreement.

3. Prices and secondary costs

- 3.1 If there is a significant change in the crucial cost factors after the offer has been submitted or after it has been confirmed but before the goods have been supplied or the service has been rendered, (Wages, materials, and / or power costs), we may demand that the prices are adjusted as appropriate. Changes in cost factors within a period of four months from the submission of an offer or order confirmation will be ignored.
- 3.2 If it is agreed that the price is dependant upon the weight of parts, the final price shall be determined by the weight of the cleared type sample.
- 3.3 All prices shall apply net ex Works excluding freight, customs duty, ancillary charges to import and packing plus the value added tax in force when the goods are supplied or the service is rendered.
- 3.4 The packing shall be selected by us to the best of our judgement and invoiced at cost price. Reusable packing containers will be taken back if an agreement to do so is made in writing. The costs and risks of return shall be borne by the customer. Packing containers taken back shall be credited at 2/3 of their invoiced value.
- 3.5 In the absence of a written instruction to the contrary sent to us in time we shall be entitled to select the cheapest achievable method of dispatch known to us applying the care we would normally apply in our own business. We shall enter into the necessary haulage and transport contracts in our own name but for the customer's benefit and for his account. We shall be entitled, but not obliged, to insure consignments in the customer's name and account.

4. Dispatch risk

- 4.1 All consignments shall be dispatched at the consignee's risk, regardless of whatever Incoterm (fob, cif, c+f, etc) constitutes an integral part of the contract.
- 4.2 Risk shall pass over to the consignee - even if the goods are dispatched with vehicles belonging to bauku GmbH, and this arrangement shall also apply if the goods are sent carriage-free – as soon as the consignment has left the supplier's works or supply depot, if the sold thing has not already been loaded into a railway freight wagon within the works or store or if the sold thing is to be handed over to a haulier of freight forwarder.
- 4.3 If the goods are made available for collection by the customer, risk shall pass over at the end of the working day following the day of notification that the goods are ready for dispatch, provided that the customer is to blame for a delay in dispatch. Notification that the goods are ready for dispatch is not subject to any specific method of notification.

5. Duty to deliver and duty to accept delivery of goods

- 5.1 Delivery dates or delivery periods which may be agreed as binding or non-binding are to be stated in writing. A delivery period shall begin three days after the order confirmation has been posted.
- 5.2 Compliance with every delivery period shall assume that all the documents to be supplied by the customer and any materials which he may possibly have to furnish as well as any licenses and clearances which may be required have been received and that all the plans from the customer have been clarified and approved. If these preconditions have not been fulfilled or if we have to obtain accessories or semi-manufactured products at the customer's request and these are not part of our production range, the period shall consequently not begin before the aforementioned preconditions have been satisfied or the accessories or semi-manufactured products have been received by us.
- 5.3 If it is incumbent upon the customer to satisfy a precondition for delivery within the meaning of Number 5.2 above, and if he has not satisfied it by the beginning of the agreed delivery period, we may consequently set a subsequent period of two weeks with a statement at the same time that we shall reject acceptance of the contract after this period has elapsed and that we shall withdraw from the contract. If the subsequent period elapses unsuccessfully, we may, by making a written statement to this effect, withdraw from the contract and / or demand compensation for damages on account of non-fulfilment.
- 5.4 In so far as we should be in default with delivery, the customer may set us a subsequent period of two weeks. Once this subsequent period has expired the customer may, given this, withdraw from the contract if he has not been notified that the goods are ready for dispatch by the end of the subsequent period. Notification does not have to satisfy any formalities. The customer is at liberty to demand compensation for damages arising from default instead of withdrawing from the contract. These are to be limited to a maximum of 5% of the net value of that part of the consignment which has not been supplied in accordance with the contract. If non-compliance with the agreed delivery period and the set subsequent period by us is attributable to gross negligence or intent, the customer shall be at liberty to prove that the damages he has sustained are greater than the above percentage.
- 5.5 Appropriate part-deliveries as well as reasonable discrepancies in the ordered quantity within tolerances normal within the industry are allowed.
- 5.6 For call-off orders, once six months have expired from the date of the order confirmation we shall be entitled to demand that the quantities not yet called off are accepted and to invoice them. We may choose to refuse to deliver any more and demand compensation for damages on account of non-fulfilment.

- 5.7 If the delivery date is delayed by more than two weeks at the customer's request, the goods made available for the original date shall be put into store from this date onwards at the customer's risk. We shall invoice 1% of the net invoiced amount plus the rate of value added tax in force at that time for storage for each new block of 10 calendar days started. We are entitled, but not obliged, to take out a fire insurance policy for the goods put into store in our own name but for the customer's account. Having set a subsequent period of four weeks, we shall be entitled to dispose of the items to be delivered once the subsequent period has expired and to supply the customer with goods from another production batch with an extended delivery period as appropriate or to withdraw from the contract and to demand compensation for damages.
- 5.8 If the customer fails to fulfil his duty to take delivery of the goods, we shall consequently, irrespective of other rights, not be bound by the regulations of a self-help sale, but may instead sell the item to be delivered in the open market having notified the customer beforehand.
- 5.9 Force majeure events shall entitle us to postpone delivery by the duration of the hindrance plus a reasonable start-up time thereafter, or to withdraw from part or all of the contract not yet fulfilled. Strike, lock-out, or unforeseeable events such as for example operational disruptions shall be treated as force majeure, in that they make it impossible for us to deliver on time in spite of making reasonable attempts to do so. This shall also apply if the aforementioned hindrances occur while we are in default or if they affect a sub-supplier directly. The customer can request that we make a statement within two weeks as to whether we intend to withdraw from the contract or supply within a reasonable subsequent period of time. Should we fail to make a statement, the customer may withdraw from the part of the contract not yet fulfilled. We shall notify the customer straight away if an instance of force majeure occurs.
- 6. Scope of delivery**
- 6.1 Only our written order confirmation shall be binding for the scope of supply, and – in so far as there is no order confirmation – our written offer shall be binding.
- 6.2 Safety devices are not included with standard deliveries. Exceptions will have to be agreed in writing.
- 6.3 Documents and information such as catalogues, diagrams, leaflets, drawings, dimension sheets, weights tables and similar shall only include approximate average values unless they have been expressly agreed in the offer as being binding. Tolerances normal within the industry will have to be accepted. We shall reserve the right to supply with tolerances caused by the characteristics of the design and manufacture and which do not impair fitness for use.
- 7. Reservation of title and Release of securities**
- 7.1 The goods supplied shall remain our property until all the claims to which we are entitled against the customer have been fulfilled, even if a purchase price has been paid towards specifically designated claims. With current account the reservation of title to the goods supplied (goods subject to reservation of title) shall serve as a security for our balance of account. If a liability relating to bills of exchange is created by us in connection with the payment of the purchase price, the reservation of title shall consequently not expire prior to the encashment of the bill of exchange by the customer as drawee.
- 7.2 The customer is entitled to combine, process and to sell the goods with moveable or unmoveable things taking the following provisions into consideration:
- 7.2.1 The customer's authority to sell goods subject to reservation of title shall end once he stops making his payments or in those cases in which an application is made to instigate insolvency proceedings on his assets. In such cases a resale is only proper if we receive the security rights anchored in these provisions, in particular the accounts assigned in advance against the third party buyer concerned.
- 7.2.2 A pledging or assignment by bill of sale as a security of the goods subject to reservation of title is not allowed. If the goods subject to reservation of title should be taken in execution by a third party we are to be forwarded a copy of the bailiff's return immediately. The title transferred as a security is to be drawn to the attention of the bailiff.
- 7.2.3 The customer shall not acquire title to the new thing as a result of processing the goods subject to the reservation of title (§ 950 of the German Civil Code [BGB]). The processing shall be effected free of charge on our behalf without placing us under any obligations. If the goods subject to reservation of title are processed together with other items belonging to the customer, or subject to an ordinary reservation of title in accordance § 449 of the German Civil Code [BGB] we shall acquire the sole title to the processed product. If the goods subject to reservation of title are processed with other goods likewise subject to an extended reservation of title, that is, not subject to the legal consequences of § 950 of the German Civil Code [BGB], we shall acquire co-ownership to the new thing in proportion to the gross invoiced value of our goods subject to reservation of title to the gross invoiced value of the other processed goods at the point in time of processing.
- 7.2.4 The customer hereby assigns his account created by the resale of the goods subject to reservation of title to us, and to be more precise, also to the extent that the goods have been processed or installed in a to a property. He shall also assign to us the accounts against a third party which he acquires as a result of the sold thing being installed in a property as a security for our accounts. If the resold processed goods in addition to our goods subject to the reservation of title only contain those items which either belong to the customer or else were only delivered to the customer subject to the reservation of title in § 449 of the German Civil Code [BGB], the customer shall consequently assign the entire purchase price account to us. In the event of advance assignments to more than one supplier, we shall be entitled to a fraction of the purchase price account equal to the ratio of the gross invoiced sum of our goods subject to reservation of title to the gross invoiced sum of the other processed items.
- 7.2.5 The reservation of title shall also continue to exist if individual accounts of ours are entered into a current account and the balance of account is drawn and recognised.
- 7.2.6 The customer is obliged to provide us with information at any time – in particular when he is aware that an application has been made to instigate insolvency proceedings on his assets – of the stock of unprocessed and processed goods subject to reservation of title and on the accounts, proceeds and surrogates created by a resale that has been carried out and to allow a representative authorised by our firm to inspect his store-rooms and premises as well as his business records.
- 7.2.7 The customer is obliged to send us a list of the goods subject to reservation of title he still has in his possession, even if they have been processed, straight away once we become aware that he has stopped making his payments even if this is to just a single third party, plus a list of the accounts assigned to us in accordance with Number 7.2.4 plus copies of the invoices presented to third party debtors.
- 7.2.8 We are entitled to demand that the customer hand over the goods subject to reservation of title without setting a subsequent period or declaring that we are withdrawing from the contract and / or to demand that the customer assign to us his rights of hand-over against third parties, if the customer fails to fulfil his contractual obligations, in particular if he handles the goods subject to reservation of tile improperly or falls into arrears with the payment of the purchase price or parts thereof. The customer may only demand the repayment of the payments he has already made if the goods subject to reservation of title are in our possession once more and we have withdrawn from the contract.
- 7.2.9 The above clauses shall also apply for business transactions with customers in countries other than Germany. In so far as additional securities are provided for by law in the destination country, they are however to apply instead of the securities above.
- 7.3 If we make use of our reservation of title in accordance with the above provisions by taking back the goods subject to reservation of title, we shall be entitled to have the goods sold or auctioned on the open market. The assertion of reservation of title or demanding the hand-over of the goods shall constitute a withdrawal from the contract. The goods subject to reservation of title shall be taken back at proceeds

received for them, no more however than the agreed supply prices. We shall reserve the right to assert additional compensation claims for damages, for lost profit in particular.

- 7.4 If the value of the securities we have exceeds our total accounts by more than 10%, we shall, at the request of the customer, given this be entitled to release securities, whereby the selection of which securities are to be released shall be left up to us.

8. Duty to examine goods received and notify defects

- 8.1 Discernable defects, and in addition to this discernable incorrect or "other" deliveries as well as incorrect quantities are to be notified straight away, and no later than 18 calendar days from the date of delivery. Concealed defects are to be notified within no later than 18 calendar days from discovery.
- 8.2 The opportunity to notify discernable defects, incorrect or "other" deliveries or incorrect quantities shall end following unconditional acceptance in accordance with Number 9.

9. Acceptance

- 9.1 Generally, acceptance of the items to be delivered will take place in our works. If no formal acceptance test is conducted, the items to be delivered shall be regarded as having been accepted once 18 calendar days have expired from hand-over.
- 9.2 The items to be delivered shall be regarded as having been accepted if the customer puts them into operation, processes them, combines them with an immovable object or sells them.

10. Warranty

- 10.1 It shall be the agreed specifications which shall determine quality and model of the items to be delivered. A reference to technical standards shall only serve to describe a specification of performance and shall not constitute a legal warranty.
- 10.2 If the customer has ordered an item to be delivered without having given any information about its specific use in the future, we shall only be liable for its functional capability and suitability of the item to be delivered for its subsequent intended use if we have given an express assurance in advance.
- 10.3 If complaints about discernable or concealed defects, incorrect or "other" deliveries or incorrect quantities are notified on time, in both cases – provided that nothing is agreed to the contrary - all warranty claims shall become time-barred twelve months from the passing of risk. In so far as longer statutory periods are compulsory they shall apply (§ 438 (1) No 2 BGB, § 479 (1) BGB, § 634a (1) No 2 BGB).
- 10.4 If notified defects are substantiated, we shall be obliged to render subsequent performance. If we fail to fulfil this obligation within a reasonable period of time or if the subsequent fulfilment is unsuccessful in spite of a repeated attempt, the customer shall be entitled to reduce the purchase price or to withdraw from the contract. Claims over and above subsequent fulfilment, in particular claims for the reimbursement of expenditure or for compensation on account of harm or consequential harm caused by a defect, shall only exist in accordance with Number 10.8.
- 10.5 If the customer carries out maintenance or repair work without our consent and handles the delivered items improperly, this shall result in the loss of all claims under warranty. The customer is only entitled to carry out repair work to avert disproportionately large damage or in the event that we are in default with repairing a defect, if we have granted our consent in advance. Such consent will be required before the customer may demand the reimbursement of reasonable costs.
- 10.6 Normal wear and tear as a result of use in accordance with the contract shall not substantiate claims under warranty.
- 10.7 Within the scope of § 478, § 479 of the German Civil Code [BGB] the customer shall only be entitled to rights of recourse in so far as the consumer was entitled to avail himself of the right of recourse and only to the extent allowed by law, but the customer shall not, on the other hand, be entitled to accommodating arrangements not agreed with us. Moreover the regulations presuppose that the party entitled to a right of recourse has observed his own obligations, in particular his duty to notify us of defects on time.
- 10.8 In all cases in which, notwithstanding the above provisions, we are obliged on the basis of contractual or statutory bases of claim to pay compensation for damages or to reimburse expenses, we shall only be liable in so far as we, our senior staff or assistants have been charged with intent, gross negligence, or loss of life, personal injury and physical harm. The liability regardless of which party is to blame under the German Product Liability Act and the liability for the fulfilment of a legal warranty shall not be affected. The liability for the culpable breach of important contractual duties shall not be affected either. Given this, liability is however, with the exception of the cases in Sentence 1), limited to foreseeable damage typical for the contract.
- 10.9 An amendment of the burden of proof to the detriment of the customer is not associated with the above arrangements.

11. Terms and Conditions of Payment

- 11.1 Payments are to be made within 30 days from the date of invoice in the contractually agreed currency and exempt from charges to one of our accounts. Discounts for prompt payment may only be subtracted if these have been expressly agreed.
- 11.2 Prompt payment discounts may only be subtracted if all the invoices payable up to that point in time have been paid in full.
- 11.3 Drafts shall only be accepted by agreement and only for the sake of payment and without warranty that they will be presented correctly and protests **will be accepted**. If cheques are accepted and not redebited, the date it was used or dispatched shall not apply, but the date it was received by us shall apply as the date on which payment was made.
- 11.4 Payments made by bank transfer shall only be made on time in those cases in which if the credit and not the customer's instruction has been received by us within the period allowed for payment.
- 11.5 If the agreed period for payment is exceeded, interest shall have to be paid on the invoice sum at 8 percentage points above the respective base rate p.a. from the date on which payment is due in accordance with § 247 of the German Civil Code [BGB]. Interest may be set higher or lower if we can prove that our loss is higher. The customer is at liberty to prove that our loss is lower.
- 11.6 If permission is granted to pay in instalments, and a date agreed for the payment of an instalment is exceeded by more than three working days, we may set a subsequent period for payment of one week. If the instalment due is not paid in the subsequent period either, the entire outstanding amount of the account still outstanding shall consequently become payable immediately and interest shall be payable upon it from the end of the subsequent period allowed for payment onwards in accordance with Number 11.5.
- 11.7 If we become aware after the contract has been signed that there has been a serious deterioration in the customer's financial status, we may demand a directly liable guarantee for the performance of a contract by applying § 648a of the German Civil Code [BGB], prior to rendering further performances. If the customer fails to furnish this guarantee within two weeks from request, we may proceed in accordance with § 648a (5) of the German Civil Code [BGB].

12. Copyright

- 12.1 An offer as well as all the drafts, calculations, drawings etc worked out by us are our intellectual property and must not be reproduced, or handed over to third persons for them to inspect without our written consent, even in the event that an order is placed. The documents must not be used to reproduce the same or similar plant, for invitations to tender or for blank forms.
- 12.2 In the event that an order is not placed all documents are to be returned to us upon request, together with the assurance that no copies of the documents or parts thereof have been used contrary to Number 12.1

12.3 If we have to supply in accordance with drawings, specimens, models or by using parts furnished by the customer, the customer shall consequently vouch that no third party rights in the destination country of the goods have been breached as a result. The customer shall notify us of rights of which he is aware. The customer shall have to exempt us from third party rights and the reimbursement of losses incurred. If we are forbidden from manufacturing or supplying by a third party relying upon a proprietary right belonging to him, we shall consequently be entitled – without reviewing the legal situation – to stop work until the legal situation has been clarified by the customer and the third party. Should it no longer be reasonable for us to continue the order as a result of the delay, we shall be entitled to withdraw from the contract.

12.4 Drawings and specimens handed over to us not resulting in an order shall be returned upon request. Otherwise we shall be entitled to destroy them three months after an offer is submitted. We shall notify the customer in advance of our intention to destroy the drawings and specimens.

13 Place of fulfilment and Place of jurisdiction

13.2 The place of fulfilment is our works.

The place of jurisdiction for all disputes arising between the parties, also including legal action concerning proceedings restricted to documentary evidence, proceedings based on cheques or cheques shall be the courts having jurisdiction where our company is based. We shall reserve the right to take legal action in every other place of jurisdiction substantiated in law.

14 Choice of law

Only German law shall apply. The application of the convention of the United Nations dated 11th April 1980 on contracts for the international sale of goods is expressly ruled out.

15 Sphere of validity

The above T&Cs shall only apply in business transactions with registered businesses or legal entities under public law.