

**General Terms and Conditions for Commercial Customers
of Müller Feinblechbautechnik GmbH, Frammersbach
Last updated: 1 February 2020**

1. General terms and conditions

- 1.1 These general terms and conditions of sale shall apply exclusively to our ("Müller Feinblechbautechnik GmbH") delivery of goods and services; general terms and conditions of the customer conflicting with or deviating from our general terms and conditions of sale shall be accepted by us only if we have consented to them expressly in writing. They shall also have no effect if we did not object to them in individual cases.
- 1.2 The provisions of 1.1 shall also apply to all future transactions with the customer.
- 1.3 Assignment of receivables from us to third parties shall be excluded. This shall not affect Art. 354 a German Commercial Code.
- 1.4 The customer shall only be entitled to set-offs, even if claims for defects or counterclaims are brought, if the claims brought have been legally established, have been recognised by us or are undisputed. The customer shall only be entitled to exercise a right of retention if the counterclaim is based on the same contract from which the customer's payment obligation arises.
- 1.5 Sale, resale and disposal of the goods and services and any associated technology or documentation may be subject to the export control laws of Germany, the EU, the US and possibly of other countries. By submitting their order, the customer declares compliance with such laws and directives. The customer declares that it has obtained all permits necessary for export or import.

2. Offer / Scope of delivery

- 2.1 Our offers are subject to change. The offers represent a non-binding invitation to the customer to order goods and services from us.
- 2.2 By sending the order to us, the customer submits a binding offer to conclude a contract.
- 2.3 We can accept this offer within a period of 14 calendar days by sending an order confirmation or by sending the goods ordered or by commencing the provision of services. If the deadline expires without effect, the offer shall be deemed to have been rejected.
- 2.4 Nonconformity with product information is admissible if it is insignificant.
- 2.5 We reserve title and copyright to designs, catalogues, advertising materials, illustrations, drawings, calculations and other documentation. This shall also apply to such written documentation marked as "confidential". Prior to disclosure of such documentation to third parties, the customer requires our express written approval.

3. Advice / consultation

We provide advice and application-technological consultation to the best of our knowledge based on our experience. However, all information and advice on suitability and application of our goods are without obligation and do not release the customer from executing their own assessments. Item 9 of these terms and conditions shall apply to a possible liability.

4. Prices

- 4.1 Unless provided otherwise in our order confirmation, our prices are "ex works" (Incoterms 2010) excluding packaging, insurance, freight and possibly minimum quantity surcharge. These items shall be invoiced separately.
- 4.2 Any and all prices are net without value-added tax. Value-added tax is listed separately in the invoice at the rate applicable at the day of issuing of the invoice (currently 19%).
- 4.3 We reserve the right to adjust our prices accordingly if reduction or increase of the costs occurs after concluding the agreement, including but not limited to such changes occurring because of collective

agreements or changes of the cost of commodity and/or material. Proof of such changes is provided to the customer on request.

5. Payment

- 5.1 Unless provided otherwise in the order confirmation, payments are due without deduction within 10 days from the date of invoice. In the event of default on payment, the provisions of 5.2 shall apply alongside the statutory regulations regarding payment default.
- 5.2 Bills of exchange and cheques are only deemed payment upon redemption and are accepted without an obligation to submit or protest them in due time and only upon special written agreement and with charging of all withdrawal and discount expenses to the customer.
- 5.3 In the event of default on payment or should our receivables be at risk as a result of a deterioration in the creditworthiness of the customer, we shall be entitled to demand payment of the sums due to us from the business relationship with the customer. We shall then also be entitled to carry out any outstanding deliveries in return for advance payment or the provision of securities only. If the customer is not in a position to provide securities within a reasonable period of time after a deadline has been set and a warning given that we may withdraw from the contract, we shall have the right to withdraw from the contract. We reserve the right to claim additional damages in the future.
- 5.4 We are entitled to claim default interest to the amount of 9 percent above the base interest rate of the ECB p.a. as from occurrence of default. This shall not affect the possibility of claiming higher actual damages.
- 5.5 We send our invoices by e-mail.

6. Delivery and delivery time

- 6.1 Unless expressly agreed otherwise, we deliver ex works or ex warehouse, excluding packaging and insurance, freight and possibly mark-ups for small volume purchases.
- 6.2 Dates and periods for the delivery of goods and services agreed bindingly or non-bindingly must be set down in writing and are agreed subject to correct and timely delivery by our suppliers only.
- 6.3 The agreed delivery/performance deadline shall be deemed to have been met if the delivery item is ready for collection at the factory or warehouse or if we have at least offered our service verbally by that deadline.
- 6.4 War, strike, lockout, shortage of raw materials and power, disruptions of traffic and unavoidable disruptions of operations, orders of higher authority – including if it makes execution of the affected operation effectively unprofitable in the foreseeable future – and all other events of force majeure, including any of them affecting our suppliers, shall release us from our delivery obligation for the duration of the disruption and to the extent of its effects. Such events shall entitle us to withdraw from the agreement in full or in part without the buyer being entitled to compensation of damages.
- 6.5 Partial deliveries of goods and services are admissible and to be paid according to the terms and conditions if they are reasonable for the customer.

7. Transfer of risk and receipt in case of shipment, default in acceptance

- 7.1 Collection/acceptance of the goods/service shall be undertaken by the customer without delay after provision at the factory or warehouse or the verbal offer of the service.
- 7.2 If the customer defaults on acceptance, we shall be entitled to claim for the expenses incurred by us/compensation; the risk of accidental deterioration and accidental loss shall be transferred to the customer as soon as the customer defaults on acceptance.
- 7.3 Subject to proof of a different amount of damages, we are entitled to claim 10% of the net invoice for compensation. For the costs of storage for goods not accepted in due time, the customer shall be charged 0.5% of the net invoice amount per month as from the first month after notification of readiness for shipment for compensation.
- 7.4 If the goods are shipped to the customer at the customer's request, the risk of accidental loss or accidental deterioration of the goods shall be transferred to the customer when the goods are dispatched and no later than when the goods leave the factory or warehouse. This shall apply regardless of who bears the freight costs. Unless agreed otherwise in writing, delivery shall in this case be curbside. The customer warrants free access to the unloading site. Additional expenses for the transport due to non-fulfilment of the

customer's obligation shall be borne by the customer. The buyer shall immediately assert any complaints due to transport damages towards the carrier within the special terms provided. The customer shall be responsible for taking out a transport insurance and other insurances. If shipping of the delivery is delayed for reasons the customer may be held responsible for, the risk of accidental deterioration and accidental loss is transferred to the customer upon notification of readiness for shipment. The customer shall bear the storage costs after transfer of risk. We reserve the right to claim additional damages in the future. If the customer falls into arrears with acceptance, we are entitled to claim compensation for the expenses incurred by us; at the occurrence of default of acceptance, the risk of accidental deterioration and accidental loss is transferred to the customer. The customer shall be in default of acceptance in this case if the customer does not accept the goods within two weeks after notification of readiness for shipment.

7.5 Goods/services shall be received by the customer, the rights provided in item 9 hereunder notwithstanding, even if they have insignificant defects.

8. Reservation of title

8.1 Until full satisfaction of all receivables for whatever legal reason incurred by the legal relationship underlying the delivery, title to all delivery items/goods is reserved (goods subject to reservation of title).

8.2 If the customer processes, joins and mixes the goods subject to reservation of title with other goods, we are entitled to joint title to the new goods in relation of the invoice value of the goods subject to reservation of title to the value of the other goods used. If our title expires due to processing, joining or mixing, the customer shall in advance assign to us the title to the new inventory or goods to the extent of the value of the goods subject to reservation of title and shall store them for us free of charge. The resulting rights of co-ownership shall be deemed goods subject to reservation of title within the meaning of 8.1.

8.3 Only within the scope of ordinary operations and if they are not in default, the customer is entitled to process the goods subject to reservation of title, join or mix them with other goods or resell them. Any other disposal of the goods subject to reservation of title is inadmissible. Distraint of the goods subject to reservation of title by third parties or any other seizure must be notified to us immediately. All intervention expenses shall be borne by the customer if they cannot be recovered from the third party. If the customer grants their buyer a respite for the purchase price, they shall reserve title to the goods subject to the reservation of title towards them to the same conditions to which we have reserved title at delivery of the goods subject to reservation of title. Otherwise the customer is not entitled to resell the goods.

8.4 Receivables of the customer incurred by resale of the goods subject to reservation of title are hereby assigned to us. They are used to secure our claims to the same extent as the goods subject to reservation of title. The customer is entitled and authorised to resell the goods only if it is guaranteed that any receivables incurred by them are transferred to us.

8.5 If the goods subject to reservation of title are sold together with other goods not delivered by us for a total price, assignment of the receivable incurred by the sale shall be made to the amount of the invoice value of our respective sold goods subject to reservation of title.

8.6 Until cancelled by us, the customer is authorised to collect the receivables assigned to us. We are entitled to cancellation if the customer does not fulfil their payment obligations incurred in the business relationship with us in due time. If the conditions for execution of the right of cancellation are fulfilled, the customer shall immediately notify us of the assigned receivables and their debtors upon our request, provide all information required to collect the receivables, provide the associated documentation and notify the debtor of the assignment. We are also entitled to notify the debtor of the assignment ourselves.

8.7 If the value of the security deposits made for us exceeds the total secured receivables by more than thirty (30) percent, we are obliged to release security deposits at our option upon the customer's request.

8.8 If we assert the reservation of title, this shall only be deemed withdrawal from the agreement if expressly declared by us in writing. The customer's right to own the goods subject to reservation of title lapses if the customer does not fulfil their obligations under the legal relationship underlying the delivery.

9. Warranty and material defects

9.1 The customer's warranty entitlements in the event of defects are in line with statutory provisions and statutory deadlines, unless otherwise specified in the following provisions.

9.2. Section 439 paragraphs 2 and 3 German Civil Code shall not be applicable; this shall not apply in the event that a defect in our performance or partial performance becomes the subject of a warranty claim by a consumer further down the supply chain. Section 377 German Commercial Code shall apply.

- 9.3 In the case of the purchase of new delivery items, customer warranty claims for defects shall become statute-barred one year after receipt of the delivery items.
- 9.4 In the case of the purchase of used delivery items, the customer shall not be entitled to bring warranty claims.
- 9.5 The limitation period of one year or the exclusion of warranty shall not apply if the liability for compensation arises from bodily injury or damage to health resulting from a defect for which we are responsible or arising from intent or gross negligence on our part or on the part of our vicarious agents. Notwithstanding the above, we shall be liable in accordance with the Product Liability Act without deviation from the statutory provisions therein.
- 9.6 The warranty shall not apply if the customer modifies the delivery items without our consent, has them modified by third parties or uses them in ways or for purposes for which they are not intended, and this renders it impossible or unreasonably difficult to remedy the defect. The customer shall bear any additional costs for the remedy of defects that result from such a modification.
- 9.7 The customer has an obligation to inspect the delivery item/service for any defects upon handover and to notify us without delay in writing of any such defects. The applicable provisions and legal consequences of the German Commercial Code apply accordingly.
- 9.8 If a notice of defects proves to be unjustified, the customer shall reimburse us for all expenses incurred by us as a result of such a notice.

10. Liability for damages in the case of fault

- 10.1 Our liability for damages, on whatever legal grounds, including but not limited to impossibility, delay, defective or incorrect delivery, breach of contract, breach of duties during contract negotiations and tortious acts, shall be limited in accordance with the provisions of 10 insofar as fault is involved.
- 10.2 We shall not be liable in the case of ordinary negligence on the part of our bodies, legal representatives, employees or other agents unless a breach of essential contractual obligations is involved. Essential contractual obligations are such obligations that grant the contractual parties the right the agreement has to grant according to its content and purpose, particularly such obligations the fulfilment of which makes the proper execution of the agreement possible in the first place and on which compliance the contractual partner regularly relies on and may rely on.
- 10.3 Insofar as we are liable for damages on the grounds specified in 10.2, said liability shall be limited to damages that we foresaw at the time of conclusion of the contract as a possible consequence of a breach of contract, or that we ought to have foreseen had we exercised due diligence. Indirect damages and consequential damages resulting from defects in delivery items shall only be payable if such damages are typically to be expected when the goods are used as intended.
- 10.4 In the event of liability for ordinary negligence, our liability for property damage and further financial loss resulting therefrom shall be limited to EUR 50,000 per insured event (which corresponds to the current coverage under our product liability insurance or liability insurance), even if a breach of essential contractual obligations is involved.
- 10.5 The above exclusions and limitations of liability shall apply to the same extent in favour of our bodies, legal representatives, employees and other vicarious agents.
- 10.6 If and to the extent that we provide technical information or act in an advisory capacity and said information or advice is not part of the contractually agreed scope of services owed by us, such information or advice shall be provided free of charge and shall not render us liable on any grounds.
- 10.7 The limitations pursuant to 10 shall not apply to our liability for intent or gross negligence, for guaranteed characteristics, for injury to life, body or health, or under the German Product Liability Act.

11. Data processing and other provisions

- 11.1 We store and transfer the customer's order-related personal data for the processing and handling of that order only (Art. 6 GDPR). In accordance with the provisions of the GDPR, the German Federal Data Protection Act and the German Telemedia Act (TMG), we are committed to comprehensive protection of the customer's personal data.
- 11.2 We are – not – prepared to take part in a dispute resolution procedure (sections 36 and 37, German Act on Alternative Dispute Resolution in Consumer Matters).

- 11.3 Substantive German law shall apply; application of the United Nations Convention on Contracts for the International Sale of Goods (CISG) is excluded.
- 11.4 Unless provided otherwise in the order confirmation, the place of performance shall be our domicile in Frammersbach.
- 11.5 If the customer is a merchant, a legal entity under public law or a special fund under public law, the courts of Würzburg shall have sole jurisdiction for all disputes arising directly or indirectly from the contract. The same shall apply if the customer is domiciled abroad. However, we are also entitled to file action against the customer at the courts of their domicile.

The German version shall apply exclusively for interpretation and application. The English translation is for information purposes only.