

§ 1 Scope, Entering Contract

1. These Terms and Conditions apply exclusively. Other Terms and Conditions shall not apply, unless Frech agrees in writing. These Terms also apply, even if Supplier acknowledges and fulfills the Purchase Order by referring to his own Terms and Conditions. These Terms remain unchanged even if Frech accepts delivery and pays the purchase price.
2. Supplier confirms the Purchase Order within five working days in writing. After six working days, Frech is entitled to revoke the Purchase Order without obligations. Further details on how to carry out this contract requires confirmation in writing by Frech.
3. These Terms and Conditions apply also for future transactions.
4. These Terms and Conditions only apply between corporations, Agreements with Government Agencies, Agreements on Separate Assets, such as Utility Funds in accordance with § 14 BGB (German Civil Code).

§ 2 Ownership of models, samples, castings, tools, drawings etc.

1. In the event that models, samples, tools, drawings ("special tools ") are delivered or paid, ownership passes to Frech upon its completion. Such special tools are exclusively to be used for the production of the Purchase Order in the interest of Frech. These special tools are subject to non-disclosure, see § 11.2. Access or disclosure of these special tools is barred to third parties without prior written consent.
2. In the event special tools are provided or reimbursed by Frech, Purchaser keeps all rights of ownership including copyrights. Supplier returns the special tools by responding to a first call. The special tools are also returned to Frech when not needed by Supplier any more.

§ 3 Purchase Price, Process of payment, Subcontractors

1. Unless agreed otherwise, the purchase price laid out in the Purchase Order is a fixed price in accordance with DAP (Inco Terms 2010). All expenses for freight/postage, shipping and packaging are included. Supplier is responsible for further obligations on top, such as sanitary fixtures and fittings, transportation costs and transportation insurance. In the event the acknowledgment of the Purchase Order contains no price schedule insofar, Frech has to be notified without delay for approval.
2. Supplier is not entitled to appoint a Subcontractor without prior consent of Frech.

§ 4 Delivery Date, Penalty for Non-Fulfillment

1. Delivery dates specified in the Purchase Order must be observed. Timely delivery is only effected at the point of destination.
2. If there is a chance of delay, Supplier will notify Frech right away with an estimate of the expected delay. Supplier shall undertake all efforts minimizing the delay. All costs of delay are at the expense of Supplier.
3. Frech is entitled to all remedies provided by law in case of delay.
4. Supplier bears the burden of proof of Force Majeure. Supplier informs Frech on his efforts to minimize the delay at all times.
5. If the Purchase Order does not arrive in due course, Frech may cancel the Agreement if an appropriate prolonged deadline had failed.
6. Permission of Frech is also required for any delivery prior the agreed date.
7. Partial delivery requires prior consent as well.

§ 5 Shipment, Packing

Unless agreed otherwise in writing delivery shall be carried out free of charge at the specified destination. All risks including accidental losses are within the scope of the Supplier until delivery at its final destination.

§ 6 Warranty, Product liability, Insurance

1. Supplier warrants State-of-the-Art delivery. All legal requirements and Rules of Public Authorities, Mutual Indemnity Associations (German: Berufsgenossenschaften) and Professional Associations are to be respected. Necessary documents/certificates need to be presented.
2. Frech communicates with a Purchase Order the mandatory data in the format of a Test Certificate. This Test Certificate contains in particular standards and instructions for testing and measuring, specific data and operational instructions. Supplier hands out the acknowledged Test Certificate upon delivery. Frech inspects any quality or quantity deficiencies within reasonable time. Potential claims are promptly filed within three working days after delivery. Hidden defects can be claimed as of discovery.
3. Frech reserves all rights of warranty and remedies without limitation provided by the law. Frech has the choice to claim either remedy or delivery of a new product. Frech reserves all rights to claim damages instead of a new product. In case of urgency, an imminent danger or failure of remedy, Frech is entitled remedying the defect itself or by using the assistance of third parties at Supplier's expense. The same right applies if the product turns out to be defective in parts.
4. Warranty claims are statute-barred after 3 years after delivery. § 438 I No. 1 and 2 BGB (German Civil Code) allow in certain cases to extend the Statutes of Limitation for more than 3 years.
5. If a Product liability case can be identified within the scope of Supplier, Frech is held responsible by third parties, Supplier is to indemnify upon first demand against any liability and claim for damages. Supplier is obliged to insure this risk with a cover of at least € 5,000,000.00 (five million) EUR for each case of injury, death or damage to property. Supplier has to provide documented evidence upon request and has to assign the rights of the insurance policy to Frech, if requested

§ 7 Terms of Payment

1. Invoices need to be sent by separate mail and can only be verified if the Purchase Order Reference Number is shown. Supplier is responsible for all consequences resulting of inappropriate invoices, unless Supplier can demonstrate that it was not his fault.
2. In case of deliveries within the European Union the delivery note and/or the invoice must show the VAT ID No. as well as the additional data required by the EU Authority INTRASTAT for statistical purposes.
3. Frech will effect payment upon receipt of the delivered goods and the invoice, unless agreed otherwise in writing,
 - within 14 days deducting a 3% cash discount,
 - within 30 days deducting a 2% cash discount
 - or
 - within 60 days net.Payment Order to the Bank is decisive for calculating the deadline.
4. If a down payment was agreed, Frech is entitled to provide Supplier with a bank guarantee.
5. Frech reserves all rights of retention and set-off without any restrictions.

§ 8 Spare Parts

Supplier guarantees to notify Frech about all relevant spare parts and substitution of worn-out or defective parts six months before a production stop to give Frech the opportunity to stock up. Supplier is obligated keeping stocks in supply for at least ten years as of the announced production stop.

§ 9 Place of Performance

Place of performance for delivery and payment is Schorndorf / Germany. Different agreements on delivery may be negotiated.

§ 10 Revocation of Contract

1. Should Supplier stop delivery due to a downgrading of the financial rating, Frech has the choice to cancel the contract altogether or in parts. Before that it has to be established that Supplier has exceeded a deadline or Supplier admits not being able to perform.
2. The same rights apply in case of commencing bankruptcy proceedings.
3. Frech also may assert the right to withdraw from contract - subject to § 4.3.
4. Frech is furthermore entitled to withdraw from contract - subject to § 10.1 - in case of any serious violation of contract. This is the case, if Supplier ignores an appropriate deadline or if the continuation of contract is unacceptable for Frech.

§ 11 Data Privacy, Confidentiality

1. Frech files and processes all data of this Agreement in machine-readable format in accordance with the German Federal Data Protection Act (Bundesdatenschutzgesetz - BDSG); All data of Supplier are kept as confidential.
2. Supplier has to keep all information being part of this Agreement as confidential. This includes all information and documentation such as illustrations, drawings etc. during the life-time of this contract and hereafter. This obligation stops once any information or documentation has become part of the Public Domain. In case of doubt Supplier has to coordinate this question with Frech.

§ 12 Jurisdiction and Venue, Applicable Law, Escape Clause

1. In the event of any dispute arising out of or in relation with the Agreement between the parties, lawsuits can be addressed within the jurisdiction of Schorndorf / Germany, in particular to the Landgericht Stuttgart / Germany – Chamber for Commercial Affairs (Kammer für Handelssachen). Frech may also sue Supplier at his own jurisdiction.
2. The entire legal relationship between Supplier and Frech is governed by German Law. The UN-Convention on the International Sale of Goods (CISG) is not applicable.
3. Should any single provision of these General Terms and Conditions be or become invalid, this shall not affect the validity of all other provisions agreed upon. The parties will replace any invalid clause by a valid clause designed to come economically as close as legally permitted to the previous clause.