

## General Terms and Conditions

### 1. General

The following terms and conditions are applicable as the basis for all business transactions under exclusion of other conditions and agreements that have not been expressly authorised by ourselves in writing, even if the text below is not quoted in detail for each individual subsequent transaction. Our own delivery and payment conditions are exclusively applicable, and our customer declares its agreement with them upon placing the order, and the same is applicable for future transactions, even if they are not referred to specifically, but they have been sent to the ordering party with our order confirmation. If the order is placed under diverging conditions of delivery and payment, only our own conditions of delivery and payment shall apply, even if we do not raise any objection. Moreover deviations are only applicable if they have been expressly recognised by ourselves in writing. We are entitled to assign any claims resulting from our general terms and conditions of business. Any legal invalidity of individual provisions of these contractual conditions shall not affect the legal force of the remaining conditions.

### 2. Offers and order execution

Orders shall only be considered to have been received when they have been confirmed in writing by ourselves. Until this point our offer is non-binding. Supplementary verbal agreements, modifications etc. require our written confirmation in order to be effective. We reserve the right to adjust any prices not expressly described as fixed prices in our offers and order confirmations, insofar as cost factors (costs of materials, personnel, energy and general expenses, tariffs and transport costs etc.) rise significantly after conclusion of the contract. We are not bound to maintain previous prices in follow-up orders. We reserve the property right and copyright for cost estimates, designs, drawings and other documents – they may only be made accessible to third parties with our agreement. Quotation drawings and other documents must be returned to us upon demand. This is also applicable in cases in which the order is not placed with us. If we have delivered objects in accordance with the customer's drawings, models, sample etc., the customer assumes liability for any breaches of trade mark rights of third parties. If a third party forbids us to produce and deliver objects under trade mark rights, we shall be entitled to halt any further activity and demand compensation without examination of the legal situation. The customer undertakes to release us immediately from all claims arising from third parties in connection with this. Liability for the proper construction and design and practical suitability lies with the customer, even if we have offered advice during development of the item. Unless agreed otherwise, prices are understood to be ex works from Schenefeld exclusive of packaging, freight and postal charges in Euros and without value added tax. Value added tax shall be charged separately at the currently-valid rate. For call orders and custom-made products we are entitled to acquire the material for the whole order and produce the full order amount immediately. As a result any changes desired by the customer cannot be contemplated after the order is placed, unless this has been specifically agreed upon – partial deliveries are permitted. Unless otherwise agreed, call orders must be accepted at the latest by 6 months after the end of the contract period, without our having to issue an acceptance demand or a default notice. If the period has expired, we are entitled at any time to either invoice the goods or cancel the order and demand compensation

### 3. Dispatch

Goods are dispatched ex works and dispatch is always at the expense and risk of the customer or ordering party, including in the case of freight-free delivery. Risk is transferred to the customer or ordering party when goods are passed to the railway, postal service or transport company or when they are loaded onto our vehicle, and at the latest upon leaving the works; this also includes the risk of confiscation. Fob or Cif transactions require our consent. In the absence of any special indications, the selection of the means of transport and the route shall be subject to our reasonable discretion and without any liability for the cheapest and fastest transportation. If goods notified as ready for dispatch are not taken immediately or if their transportation is rendered permanently impossible, the purchase price shall be payable notwithstanding. In this case we shall be entitled to store the goods at our own discretion, at the expense and risk of the customer. Liability of the deliverer for damage from adverse weather conditions incurred on the goods during transportation or storage is excluded. We reserve the right to over or under-deliver by up to 10% of the total order amount, in particular in cases of custom manufactured items.

### 4. Packaging

In the absence of other, express agreement recognised by ourselves in writing, we shall choose packaging at our discretion. Crate packaging will be charged to the customer and if returned freight paid in a good condition within 4 weeks, 2/3 of its invoiced value shall be refunded. Cardboard and inner packaging shall be charged at cost price and will not be taken back.

### 5. Notification of defects

Notification of defects must be made in writing within 14 days of receipt of the goods at the destination. Notification of defects that cannot be detected within this period despite careful inspection must be given immediately upon their detection, and at the latest by 6 weeks after receipt of the goods.

### 6. Guarantee

Any faulty goods – including in the absence of promised features – shall be taken back by us and substituted for others with no flaws. Any reduction in value may be credited, at our own discretion. In the event of complaint the goods must be sent to us for inspection free of carriage costs. Costs for the return transportation shall be refunded if the complaint proves to be justified. We can disclaim the guarantee if an appropriate amount has not been paid for the delivery. If, through our fault, we fail to meet a reasonable period of grace granted to us for the subsequent delivery or several subsequent deliveries do not remedy the defects, the customer is entitled to withdraw from the contract or to a reduction, to the exclusion of any further rights. We accept no liability for errors that arise as a result of the drawings or samples loaned to us by the customer. The statutory limitation periods shall apply. We are not liable for damages arising as a result of alterations or similar of the products delivered by us undertaken by the customer.

### 7. Compensation for damages

Claims for damages of any kind – both within the context of the guarantee and external to the guarantee – brought against us, our legal representatives and agents – in particular including damages not incurred on the delivery item itself – e.g. due to breach of secondary contractual obligations, consulting errors, delay, impossibility, assembly errors, repair damages, fault upon conclusion of contract, culpable breach of obligation to make subsequent delivery – are excluded, unless there is intent, or our management or senior executives commit gross negligence. A disclaimer is also issued for other grounds in accordance with our general terms and conditions of trade. If liability cannot be excluded in individual cases, the amount of the

liability is always limited to the proven damages, and at the most to the purchase price of the object of sale based on the delivery or subsequent delivery of which the claims result. For damages arising during compression and crimping of linings made of rubber, Vulkollan or other materials and during coating of the items supplied by the customer, liability is excluded. This work is performed exclusively at the responsibility of the customer.

### 8. Delivery time

Delivery times are always understood as anticipated, even when this is not specifically mentioned. They begin as appropriate only after fulfilment of the agreed delivery conditions (presentation of documents, sample approval, agreed advance payment etc.). The delivery time is considered to have been met if timely notification of readiness for shipment has been given in cases where dispatch is impossible through no fault of ours. If we are late with delivery, the customer must set us a suitable subsequent period for delivery. When this subsequent period has expired, the customer may withdraw from the arrangement provided notification of the readiness for shipment of the goods has not been given by the end of said period. The customer may not send back partial deliveries. Claims for compensation for damages due to non-fulfilment or delayed fulfilment are excluded. If an act of God, strike or lock-out or other events outside of our scope of influence and control hinder the completion of our obligation to deliver, whether such events take place in our works or those of our suppliers or sub-suppliers – e.g. operational disruptions, delays in the delivery of essential raw materials and production materials, vendor parts, impact of labour disputes, energy shortages, intervention of the authorities - the deadline for delivery shall be extended accordingly. If the delivery or service is impossible or unfeasible, we shall be released from our obligation to deliver.

The customer is only entitled to withdraw from the agreement after setting a reasonable subsequent period, if adhering to the contract is no longer feasible for it. Call orders must be accepted at the latest within one year after the arrangement is made if the time of delivery is not expressly established.

### 9. Conditions of payment

Payments by cheque or transfer with the effect of discharging the debt are to be made into our assigned account at Coface Finanz GmbH, Isaac-Fulda-Allee 5, 55214 Mainz. We have also transferred our retention of title to this institution. Unless other contrary conditions of payment are stipulated in our offer, the payment must be made net in cash within 30 days from the invoice date without any offsetting or withholding. We shall only accept discountable bills of exchange if this has been expressly agreed upon. Credit notes for bills of exchange or cheques are regarded as valid under condition of receipt and irrespective of earlier payment date of the purchase price on default of the customer, and their value date is the date on which we are able to draw on the proceeds. If the payment term is exceeded the customer is obliged to cover loss of interest amounting to 4% above the respective discount rate of our national central bank. If the buyer is in delay with any of its payment obligations towards us, all existing outstanding accounts shall immediately be due. This also entitles us to perform outstanding deliveries only when advance payment is made or security provided, and to withdraw from the agreement after a reasonable subsequent period has been established, or to demand compensation for damages due to non-fulfilment, without prejudice to the right to take back goods delivered which are still under retention of title at the expense of the customer.

### 10. Retention of title

Title of the delivered goods remains with us as security for all of our respective claims, including conditional and time-restricted claims, arising from the entire business transaction, even when the purchase price for specified receivables has been paid. In cases of running accounts, the reservation of title shall serve as security for our outstanding balance. According to §950 of the German Civil Code (BGB), any conversion or processing by the buyer shall be deemed to have been carried out on our behalf, and we remain the owner of the resulting object, which serves as security for our claims subject to retention of title. If the delivery item is processed (combined/mixed) with other goods that do not belong to us, the provisions of §§ 94/948 of the German Civil Code (BGB) apply, with the consequence that our co-ownership of the new item is henceforth deemed retained goods for the purpose of these provisions. The customer is only permitted to resell the retained goods in the context of normal business practice under the condition that it also agrees upon retention of title with its customer. The customer is not entitled to dispose of the retained goods in any other way, in particular by pledging and the transfer of ownership for security. In the case of resale, the customer hereby assigns to us all claims and other receivables arising from the resale, as well as all auxiliary rights, until satisfaction of our claims. At our request, the customer is obliged to provide us with all the information and documents necessary for the assertion of our rights against the customer's client. If the retained goods are resold by the customer after processing together with other goods which do not belong to us, the assignment of the purchasing price shall only apply to the invoice value of our retained goods. If the value of the securities existing for us exceeds our total claim by more than 20%, we are, at the customer's request, obliged to release securities of our choice. We must be notified immediately of garnishments or confiscations of the retained goods by third parties. Any intervention costs arising therefrom are in all cases payable by the customer. If we take advantage of our retention of title according to the above regulations by taking back the retained goods, we are entitled to sell the goods on the open market or have them sold at auction. Retained goods shall be returned at their released price, and at no more than their agreed delivery price. We reserve the right to further claims for compensation for damages, in particular for lost profit.

### 11. Place of fulfilment, jurisdiction, applicable law, miscellaneous

The place of fulfilment for all the claims arising from the contract is the registered place of business of the company. Jurisdiction for all proceedings is the registered place of business of the company or Mainz, as per our choice. We may, at our discretion, also sue the customer through the competent courts of its place of business. The contractual relationship is subject exclusively to German law, and in particular the German Civil Code (Bürgerlichen Gesetzbuch - BGB) and the German Commercial Code (Handelsgesetzbuch - HGB). We save data in accordance with the German Federal Data Protection Law. These general terms and conditions of trade are applicable as from 27.12.2007. All previous general terms and conditions of trade hereby lose their validity.

**FGM Fritz Gradert Maschinenbau GmbH & Co. KG**  
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