

# General Terms and Conditions (Page 1/4)

## Conditions of Sale

### I. Validity / Offers

- 1) These General Terms and Conditions apply to all current and future contracts and other services. Any Terms of the Buyer shall not be binding, even if we do not expressly object again after its submission.
- 2) All offers are subject to confirmation. Any agreement, particularly verbal supplementary agreements, commitments, guarantees and other assurances, by our sales staff shall only be binding upon written confirmation.
- 3) Any offer related documentation such as drawings, illustrations, technical specification, references to Standards as well as statements in advertising material do not constitute any indication to quality or warranty insofar as they were not expressly identified as such in written form.
- 4) Deviations of delivery item from offers, samples and prior deliveries are admissible in accordance with DIN/EN-Standards or other relevant technical Standards in its current version.

### II. Prices

- 1) Our prices are, unless otherwise agreed, net prices, EX WORK, without packaging plus VAT.
- 2) In case of goods being delivered packaged, any packaging is charged at cost. Within the scope of statutory regulations packaging delivered by noltewerk may be returned by the Buyer carriage paid and within reasonable time.

### III. Payment and Settlement

- 1) Invoices are due within 14 days less 2 % discount and within 30 days net after issuance. Payment is to be effected such that any settlement amount is at our disposal on the due date at the latest. Buyer shall be in default 10 days after due date of outstanding amount without the necessity of a reminder.
- 2) Invoices with a value of less than 50.00 Euros as well as for assembly work, repairs, moulds and pro-rata tool costs are due net and immediately.
- 3) In case of counterclaims contested by noltewerk or any counterclaim not being final and binding the Buyer shall not be entitled to retention or set-off.
- 4) After expiry of due date, but at default at the latest, we shall be entitled to charge interest at the level of respective bank rates for overdraft facilities, but at least at the level of 8 (eight) percent above base rate. noltewerk reserves the right of assertion of further delay damages.
- 5) If, after closing, it becomes apparent that our payment claim is jeopardised by the Buyers' inability to pay, we shall be entitled to rights from § 321 BGB [Bürgerliches Gesetzbuch = German Civil Code] (Plea of Uncertainty). We shall also be entitled to make due and payable all outstanding non-barred amounts of the Buyer from current business relations and to revoke the direct debit mandate according to section V/5. In addition we shall be entitled to restitution of goods within adequate extension and bar resale and further processing of goods delivered. Take-back of goods does not equal rescission from contract.

The Buyer may avert any and all of these legal consequences through payment or security to the amount of jeopardised payment claim. Provisions of the Insolvency Code remain unaffected by above regulations.

- 6) Any agreed cash discount refers to the invoice value without freight charges only and requires full settlement of any due liability of the Buyer at time of award of such cash discount.

### IV. Delivery times

- 1) Delivery time and date is met if, by the time of its expiry, delivery item has left our premises.
- 2) Delivery time shall be extended as deemed reasonable in the case of measures within the scope of labour disputes particularly strike and lockout as well as unforeseeable obstacles beyond our control as far as such events verifiably impact significantly on the production or delivery of the delivery item. This shall also apply to such circumstances arising with our suppliers. We shall notify the Buyer immediately about such circumstances. These regulations shall apply to delivery dates accordingly. If performance of the Contract becomes unreasonable for one or both of the parties, they may rescind from the Contract.

### V. Retention of Title

- 1) All goods supplied remain our property (Reserved Goods) until fulfilment of all obligations arising from the business relationship, regardless of the legal reason, including future or conditional claims.
- 2) Treatment and processing of reserved goods occurs for us as manufacturer in the sense of § 950 BGB [Bürgerliches Gesetzbuch = German Civil Code], without obligations. Processed goods shall be deemed reserved goods in the sense of Section V/1. Upon processing, combination and mixing of reserved good with other goods noltewerk acquires co-ownership of the new goods at the ratio of invoice value of reserved goods to invoice value of other goods used. If our ownership expires due to combining or mixing the Buyer shall hereby already assign his property rights to the new stock or items to the extent of invoice value of such reserved goods and shall store the goods free of charge. Resultant co-ownership shall be considered reserved goods in the sense of Section V/1.
- 3) Buyer may only sell reserved goods in the normal course of business and as long as he is not in default, provided all claims from such sale are transferred to noltewerk in accordance with Section V/4 to V/6. Buyer shall not be entitled to dispose of reserved goods in any other way.
- 4) The Buyer shall hereby already assign his claims from any sale of reserved goods to noltewerk who accepts such assignment. It serves as security to the same extent as the reserved goods. If reserved goods are sold by the Buyer with other goods not supplied by noltewerk - the assignment of debt from such sale shall not exceed the amount invoiced for each reserved good sold at a time. In case of sale of goods to which noltewerk holds co-ownership shares according to Section V/2 the assignment of depth shall not exceed the level of co-ownership shares held.

### (V. Retention of Title)

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- 5) Buyer shall be entitled to collect claims from any sale until such is revoked, which shall be permissible at any time. We shall only exercise our right of revocation in cases specified in III/4. Upon our request the Buyer shall be obliged to inform his customers of assignment of debt to noltewerk without delay - as far as the we do not do so ourselves - and provides us with the information and documentation that may be required to collect such claims.
- 6) The Buyer shall inform noltewerk about any attachment or other encroachment by third parties without undue delay.
- 7) If the value of existing securities exceeds the secured claim by more than 50 % the Seller shall be obliged to release securities of his choice upon Buyer's request.

### VI. Performance of Deliveries

- 1) Transfer of risk to the Buyer shall be effected upon receipt of goods by a forwarder or freight carrier, however, with the goods leaving stores at the latest or - in case of drop shipping - leaving the supplying plant. This shall apply to all transactions as well as "pre-paid" and "free domicile" deliveries. The Buyer bears obligation of and cost for unloading. We shall obtain insurance only upon instruction of the Buyer, at his cost.
- 2) noltewerk shall be entitled to partial delivery to a reasonable extent. For goods manufactured to Buyers' specification, delivery of quantities more or less 10 % of the order quantity are permissible.
- 3) In case of call orders we shall be entitled to manufacture or have manufactured the entire order amount. Any change request after order placement cannot be considered unless expressly agreed. Call dates and quantities may only, as far as no fixed agreements were made, be met within the scope of our delivery and production capabilities. If goods are not called off in accordance with the Contract, we are entitled to invoice such goods as being delivered after expiry of a reasonable extension.

### VII. Liability for defects

- 1) In case of justified and immediate notice of defects noltewerk may, at its discretion, remedy deficiencies or supply a defect free item (Subsequent Performance). In case of failure or refusal of subsequent performance Buyer may reduce purchase price or, after setting an appropriate deadline and its expiry, rescind from the Contract. In case of minor defects Buyer shall only be entitled to reduce the purchase price.
- 2) Expenditure in connection with subsequent performance shall only be borne by noltewerk as far as, in each individual case, such are appropriate in proportion to the purchase price of the goods. noltewerk shall not bear any cost arising from the transport of goods purchased to a place other than the registered office or branch of the Buyer unless this corresponds with its contractual use.
- 3) As long as the Buyer does not provide us with the opportunity to inspect the defect, and in particular make available the defective goods or samples thereof upon our request, he may no longer invoke any claim for defective goods.
- 4) Further claims according to Section VII shall be excluded. This applies particularly to claims for compensation of damages which did not arise from the goods itself (Consequential Damages).

### VIII. Limitation and General Limitation of Liability

- 1) noltewerk shall be liable for the breach of contractual and non-contractual obligations, particularly impossibility of performance, default, pre-contractual fault and tort - also on the part of our management staff and other assistants - only in the event of wilful misconduct and gross negligence, it being understood that such liability shall be confined to the typical loss or damage which could have reasonably been foreseen at the date at which the contract was entered into.
- 2) Said limitations shall not apply in the case of negligent breach of essential contractual obligations, to the extent to which the purpose of the contract is put at risk, nor in cases of compulsory liability under the Product Liability Act, nor in cases of danger to life, bodily injuries and health damage, and moreover, not even if and to the extent to which we maliciously concealed defects of the product or guaranteed the absence of such defects. Provisions in regards to the burden of proof remain unaffected.
- 3) Unless otherwise agreed, any contractual claim brought against us by the Buyer arising from or in connection with the delivery of the goods is subject to a limitation period of one year after delivery of such goods. This limitation shall also apply to such goods which, according to their normal purpose of use, have been used for constructional works related to real estate property and which have caused damage within this construction, unless this purpose of use has been agreed upon in writing. Our liability arising from wilful and gross negligent misconduct as well as limitation of claim from statutory rights of recourse remain unaffected. In cases of subsequent performance the limitation period shall not commence again.

### IX. Copyright

- 1) We reserve the right of ownership and copyright for any quotations, drafts, drawings and other documentation. These may only be made available to third parties with our consent. Drawings and other documentation belonging to quotes shall be returned upon request.
- 2) In case of noltewerk delivering items according to drawings, models, samples or other documents provided by the customer, the latter shall ensure that property rights of third parties are not infringed upon. If a third party, with reference to property rights, prohibits in particular the manufacturing and delivery of such items we shall be entitled to suspend all relevant activities and to claim damages - without being obliged to analyse legal responsibilities. The Buyer shall also be obliged to indemnify noltewerk from all claims by third parties without delay.

### X. Test Components, Moulds, Tools

- 1) If the Buyer is to provide parts for the execution of the order, they are to be delivered to the production facility in due time, free of any charge and defect, including agreed quantity, otherwise with an adequate additional quantity, for any rejects. If above does not occur, any resulting cost and other consequences shall be borne by the Buyer.

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- 2) Any cost for the manufacture of test parts including the costs for moulds and tools shall be borne by the Buyer.
- 3) Property rights for moulds, tools and other devices necessary for the manufacture of ordered parts are subject to the agreements made. In case of such devices becoming unusable prior to manufacture of output quantities ordered the re-placement costs shall be borne by us. noltewerk shall under-take to hold such devices for a minimum of two years after last use.

### (X. Test Components, Moulds, Tools)

- 4) For any tool, mould and other production device supplied by the Buyer our liability shall be limited to the diligence exercised in own matters. Any cost for maintenance and care shall be borne by the Buyer. Our obligation to retention ends - regardless of the property rights of the Buyer - two years after the last production

using this mould or tool at the latest.

### XI. Place of Performance/Jurisdiction and applicable Law

- 1) Place of Performance for our deliveries is our company. Place of Jurisdiction for traders are the noltewerk headquarters. We may also sue the Buyer at its place of venue.

- 2) Supplementing these Conditions all legal relations between noltewerk and the Buyer shall be governed by the laws of Germany under inclusion of the provisions of the UN Convention on the International Sale of Goods (CISG) dated April 11, 1980.

### XII. Authoritative Version

In case of doubt only the German version of these General Terms and Conditions is authoritative and legally binding.

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## Purchase Conditions

### I. Contractual Content and Formation of Contract

- 1) These General Purchase Conditions apply to all current and future orders of goods and other services and their processing. We shall not recognize any condition by the Contractor opposing or deviating from these conditions unless otherwise provided for in these Conditions of Purchase or in the Contract with the Contractor. If noltewerk accepts delivery without express objection, this shall not be construed to mean that we have accepted the Contractors' terms.
- 2) If, in case of a particular order, differing conditions to these conditions were agreed, the General Conditions of Purchase apply subordinate and supplementary.
- 3) Any preparation of offers shall be free of charge and without engagement.

### II. Prices

All prices shall include delivery to designated point of receipt, freight, packaging and ancillary costs. In case of delivery costs not being included, we shall bear the most favourable transport costs only, unless we stipulated a particular means of transport.

### III. Payment

- 1) Unless otherwise agree, the following payment terms apply: Invoices are either settled within 14 day with 3 % discount or within 30 day net. In case of Contractors' payment terms being more favourable, those shall apply.
- 2) Payment and discount terms shall commence with receipt of invoice but not before receipt of goods or in case of services not before their acceptance and not until any documentation or similar documents pertaining to the contractual performance have been handed over in accordance with the Contract.
- 3) Payments are made by cheque or bank transfer. Any payment shall be deemed to be on time if the cheque was posted or the transfer was authorized at the bank on the due date.

- 4) We reserve the right of retention or set-off as provided by law.

- 5) Interest on maturity may not be claimed. Default interest shall amount to 5 (five) percent points above base rate. In any case, we shall be entitled to compensate the lower actual damage caused by default, if proof is supplied.

### IV. Delivery times

- 1) Agreed delivery dates and times are binding. Imminent delays in delivery shall be notified by the Contractor immediately.
- 2) We shall be entitled to statutory provisions in case of default. In particular, after expiry of a reasonable extension we shall be entitled to claim damages instead of performance. Our entitlement to performance shall not be barred until Seller has paid damages in full.

### V. Retention of Title

- 1) With respect to the Contractors' retention of title, Contractors' condition shall apply with the stipulation that ownership of the goods shall pass to noltewerk upon payment and that; accordingly, the so-called current account or extended reservation of ownership shall not apply.
- 2) The Seller may only claim return of goods on the basis of retention of title upon his withdrawal from the Contract.

### VI. Performance of Deliveries and Transfer of Risk

- 1) Supplier shall bear the risk of accidental loss and accidental deterioration, even with "prepaid" and "free domicile" deliveries, until the goods have been handed over at the place of delivery.
- 2) Partial deliveries require consent by noltewerk.

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## Purchase Conditions

4) We reserve the right of retention or set-off as provided by law.

5) Interest on maturity may not be claimed. Default interest shall amount to 5 (five) percent points above base rate. In any case, we shall be entitled to compensate the lower actual damage caused by default, if proof is supplied.

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### VI. Performance of Deliveries and Transfer of Risk

- 1) Supplier shall bear the risk of accidental loss and accidental deterioration, even with "prepaid" and "free domicile" deliveries, until the goods have been handed over at the place of delivery.
- 2) Partial deliveries require consent by noltewerk.
- 3) Deliveries of more or less of ordered quantity are only permissible within commercial limits.
- 4) Any cost for packaging shall be borne by the Contractor unless agreed otherwise in writing. In case of noltewerk bearing the cost in an individual case, the Contractor shall charge the lowest possible cost for such packaging only. Take-back obligations are subject to the Packaging Ordinance dated August 21, 1998

### VII. Declaration of Originating Status

In case of a Declaration of Originating Status of sold goods, being issued by the Contractor the following shall apply:

- 1) The Contractor shall be obliged to allow verification of Proof of Origin by customs authorities and submit all necessary information as well as any required certification.
- 2) The Contractor shall be obliged to compensate any loss caused by a non-recognition of declared origin by the responsible authorities as a result of an incorrect certificate or lack of opportunity for verification, unless these consequences are beyond his responsibility. Such liability shall only apply in case of culpable conduct or in case of absence of assured properties.

### VIII. Liability for Defects and Limitation

- 1) The Seller shall provide the goods free of material defects and

defects in title. In particular, the Seller shall ensure that

deliveries and services supplied comply with the accepted rules of technology and contractually agreed properties, Standards as well as safety, health and safety, accident prevention and other regulations.

- 2) Good received shall be inspected as to quality and quantity by noltewerk to the extent both reasonable and technically feasible. Notifications of defect shall be deemed to be on time if received by the Contractor within five working days by letter, fax, email or telephone. The period for such notification shall not begin before noltewerk - or in case of drop shipping our buyers - have detected or should have detected such defect.
- 3) In case of defective goods we shall be entitled to statutory rights at our discretion. In case of defects existing at time of transfer of risk to noltewerk, noltewerk shall be entitled to claim compensation for expenditure, which noltewerk has to bear in relation to its buyers.
- 4) Claims for defects are subject to the statutory limitation periods. In any case, such periods commence with timely submission in the sense of no. 2. Sellers' liability for defects ends, however, ten years after delivery of goods. This limitation does not apply, if any claim is based on facts which the Seller was aware of or should have been aware of and did not disclose.
- 5) The Contractor shall hereby already assign - on account of performance - any claim against his sub-contractors arising from or in connection with the delivery of defective goods or such goods lacking assured properties. Contractor shall hand over any and all necessary documents to assert such claims.

### IX. Tools, Models, Drawings and other Documents

- 1) Tools, models, drawings and other documentation supplied by or prepared for us may solely be used for the execution of our orders. These may only be made available to third parties with our consent and are, until further notice, to be properly stored for no longer than two years after last use and returned to noltewerk thereafter.
- 2) Manufacture as well as processing of such tools, models, drawings and other documents commissioned by noltewerk occurs for us as manufacturer, with the result of obtaining ownership thereto.

### X. Place of Performance/Jurisdiction and applicable Law

- 1) Place of Performance for deliveries, unless otherwise agreed, is our company.
- 2) Place of Jurisdiction are the noltewerk headquarters. We may also sue the Contractor at its place of venue as well as the place of venue of our commercially registered branch with which the Contract was concluded.
- 3) Supplementing these terms all legal relations between noltewerk and the Contractor shall be governed by the laws of Germany under inclusion of the provisions of the UN Convention on the International Sale of Goods (CISG) dated April 11, 1980.

### XI. Authoritative Version

In case of doubt only the German version of these General Purchase Conditions is authoritative and legally binding.

As of 01.01.2014