

Terms and Conditions (Page 1 / 5)

noltewerk GmbH & Co. KG · Mergenthalerstr. 15 · 48268 Greven

Terms and Conditions of Sale

These Terms and Condition apply only to:

1. entrepreneurs within the meaning of Section 14 of the German Civil Code (BGB);
2. legal entities under public law or special assets under public law.

I. General

1. All supplies and services are subject to these Terms and Conditions and any separately made contractual agreement. Any terms and conditions of purchase set out by the Purchaser that differ from these shall not form part of the contract, even if the order is accepted.

Unless otherwise agreed, a contract shall be concluded upon the Supplier's written confirmation of the order.

2. The Supplier reserves the right to retain samples, quotations, drawings and similar information, whether tangible or intangible, including in electronic form; such information must not be made available to third parties. The Supplier undertakes to disclose to third parties any information and documents designated as confidential by the Purchaser only with the Purchaser's consent.
3. Insofar as the Purchaser provides the Supplier with technical or other information, documents, specifications, drawings, data, dimensions, materials or other requirements (hereinafter referred to as 'Purchaser's Specifications'), the Supplier shall be entitled to treat them as binding without verifying their accuracy, completeness, suitability or legal admissibility. The Supplier is, in particular, under no obligation to check the Purchaser's specifications for any errors, inconsistencies, infringements of third-party rights or technical feasibility. The Purchaser is responsible for ensuring that the Purchaser's specifications are accurate, complete and suitable for the intended purpose, and that they do not contravene any statutory provision. The Purchaser shall, upon first request, indemnify the Supplier against all claims by third parties arising from the use of the Purchaser's Specifications, and shall compensate the Supplier for all losses incurred as a result, including reasonable legal costs. This provision applies regardless of whether the Purchaser's Specifications were provided in writing, electronically, verbally or any other form.
4. The Supplier's quotation is non-binding unless expressly confirmed in writing. Any agreements, in particular ancillary oral agreements, commitments, guarantees or other representations made by the Supplier's sales personnel shall only be binding if confirmed in writing.
5. Any drawings, illustrations, technical data, specifications, references to standards or statements contained in catalogues, brochures, advertisements or other promotional materials are provided for information purposes only and shall not constitute any representation, warranty or agreement as to quality unless expressly confirmed in writing.
6. The delivered goods may deviate from quotations, samples, trial deliveries and previous deliveries to the extent permitted by the applicable DIN, EN or other relevant technical standards in force at the relevant time.
7. The Purchaser shall not use any information provided by the Supplier, including without limitation technical documentation, drawings, plans, software, data, trade secrets, product or process descriptions not publicly available, and any other confidential information ('Supplier Information'), in whole or in part, for the training, optimization or use of Artificial Intelligence Systems ('AI') including large language models, generative AI, and machine

learning, nor shall it make such available to third parties for such purposes. This applies regardless of whether the content is used on publicly accessible platforms such as ChatGPT, Copilot, Gemini or in stand-alone systems, and even where it is claimed that Supplier information has been anonymized, pseudonymized or aggregated. The only relevant factor is whether the use of the system could result in the Supplier's information being incorporated into training, data entry or analysis processes. The Purchaser shall take appropriate technical and organizational measures to ensure compliance with this provision, in particular by imposing corresponding obligations on and providing appropriate instructions to its employees and agents. Any breach of this provision shall entitle the Supplier to terminate all existing contracts with the Purchaser with immediate effect and to claim damages.

8. Any further rights, in particular those arising from the Geschäftsgeheimnisschutz (GeschGehG = Trade Secrets Protection Act), the Urheberrechtsgesetz (UrhG = Copyright Act) and Section 823 of the BGB (Bürgerliches Gesetzbuch = German Civil Code), remain unaffected.

II. Price and Payment

1. Unless otherwise agreed, prices are understood to be ex works, including loading at the factory, but excluding packaging and unloading. VAT at the applicable statutory rate shall be added.
2. Invoices are due and payable within 10 days after issuance without deduction. Payment shall be made so that the invoice amount is received by the Supplier no later than the due date. The Purchaser shall be deemed in default 10 days after due date without the need for any reminder or notice.
3. Invoices with a value of less than EUR 50.00 as well as for assembly work, repairs, moulds and pro rata tool costs are due and payable immediately without deduction.
4. The Purchaser shall only be entitled to withhold payments to the extent that their counterclaims are undisputed or have been established by a final and binding judgement.
5. The Purchaser shall be entitled to withhold payments only to the extent that its counterclaims are undisputed or have been established by a final and binding judgement.
6. After expiry of due date, and not later than upon default, the Supplier shall be entitled to charge interest at the rates customarily charged by banks for overdraft facilities, but in any event at no less than 9 (nine) percentage points above applicable base rate. The right to claim further damages for default shall remain unaffected.
7. If, after the conclusion of the contract, it becomes apparent that the Supplier's payment claim is jeopardized by the Purchaser's inability to perform its payment obligations, the Supplier shall be entitled to exercise its rights under Section 321 of the German Civil Code (BGB). In the event of payment default, the Supplier shall furthermore be entitled, following the expiry of a reasonable grace period, to demand the return of the goods and to prohibit any resale or further processing of the goods delivered. The return of the goods shall not constitute rescission of the Contract.
8. The Purchaser may avert any and all of such legal consequences through payment or security to the amount of jeopardized payment claim. Provisions of the Insolvency Code remain unaffected by above regulations.

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9. Any agreed cash discount may only be deducted from the invoice amount excluding freight charges and only if all due invoices owed by the Purchaser have been paid in full.

III. Delivery time, Delivery delay, Delivery quantity

1. Delivery time is determined by the agreements between the contracting parties. The Supplier's performance of the Contract is conditional upon all commercial and technical matters having been clarified between the Contracting Parties and upon the Purchaser having fulfilled all of its obligations, including obtaining the necessary official permits or approvals and making any agreed advance payment. Should this not be the case, the delivery time shall be extended accordingly. This shall not apply where the Supplier is responsible for the delay.

2. Adherence to delivery time is subject to correct and timely supply by our own suppliers. The Supplier shall give notice of any impending delays as soon as possible.

3. The delivery period shall be deemed met if, before its expiry, the goods have left the Supplier's premises, or the Supplier has notified the Purchaser that they are ready for dispatch. Where acceptance is required, the date of acceptance shall be decisive. If acceptance is unjustifiably refused, the date on which the Supplier notifies the Purchaser that the goods are ready for acceptance shall be decisive.

4. Should dispatch or acceptance of the goods delivered be delayed for reasons attributable to the Purchaser, the Purchaser shall be charged for the costs incurred as a result of the delay, commencing one month after notification that the goods are ready for dispatch or acceptance.

5. If failure to meet the delivery deadline is attributable to force majeure, industrial action or other events beyond the Supplier's control, the delivery deadline shall be extended accordingly. The Supplier shall notify the Purchaser of start and end of such circumstances as soon as possible.

6. The Purchaser may withdraw from the contract without setting a grace period if, prior to the transfer of risk, performance by the Supplier becomes permanently impossible. The Purchaser may also withdraw from the contract if, in the case of an order, it becomes impossible to fulfil the delivery in part, and the Purchaser has a legitimate interest in refusing the partial delivery. If this is not the case, the Purchaser shall pay the contract price attributable to such partial delivery. The Purchaser may, furthermore, withdraw from the contract if performance of part of the delivery becomes impossible and the Purchaser has a legitimate interest in rejecting the partial delivery. If this is not the case, the Purchaser shall pay the portion of the contract price attributable to the partial delivery. Same shall apply in the event of the Supplier's inability to fulfil the contract. In all other respects, Section VII.2 shall apply.

If the impossibility or inability to perform arises while the Purchaser is in default of acceptance, or if the Purchaser is solely or predominantly responsible for such circumstances, the Purchaser shall remain liable for payment of the contract price.

7. If the Supplier is in default and the Purchaser incurs a loss as a result, the Purchaser may claim liquidated damages for delay at a rate of 0.5% of the value of the affected part of the delivery for each completed week of delay, up to a maximum of 5% of such value. The affected part of the delivery is the part that, as a result of the delay, cannot be used in accordance with the contract or for its intended purpose.

8. If, subject to the statutory exceptions, the Purchaser sets the Supplier a reasonable grace period for performance after the due date and the deadline is not met, the Purchaser shall be entitled to withdraw from the contract in accordance with the statutory provisions. He shall, at the Supplier's request, within a reasonable period of time, declare whether it intends to exercise its right of withdrawal.

Any further claim arising from a delay in delivery shall be governed exclusively by Section VII.2 of these Terms and Conditions.

9. Unless expressly agreed otherwise and where required for technical or logistical reasons relating to production, deliveries exceeding or falling short of the ordered quantity by up to 10 percent are permitted.

Insofar, the quantity actually delivered shall be deemed to be in accordance with the contract. The purchase price is calculated on the basis of the quantity actually delivered at the contractually agreed prices.

The Purchaser shall have no further claims arising from any excess or short delivery within this tolerance.

IV. Transfer of Risk, Acceptance

1. The risk shall pass to the Purchaser once the goods to be delivered have left the Supplier's premises, even if partial deliveries are made or if the Supplier has undertaken to provide other services, such as covering the delivery costs or arranging delivery and installation. As far as acceptance is required, this shall determine the point at which risk passes. It shall be carried out without delay on the date of acceptance, or, failing that, upon notification by the Supplier that the goods are ready for acceptance. The Purchaser may not refuse to accept the goods in the event of a minor defect.

2. If dispatch or acceptance is delayed or prevented for reasons not attributable to the Supplier, the risk shall pass to the Purchaser upon notification that the goods are ready for dispatch or acceptance. At the Purchaser's request and expense, the Supplier shall arrange any insurance requested by the Purchaser.

3. Partial deliveries are permitted, provided the Purchaser deems it reasonable.

4. The Purchaser is obliged to take delivery of the goods provided or delivered in accordance with the contract on the agreed date.

5. Should the Purchaser fail to take delivery of the goods despite their being made available in accordance with the contract, the Supplier shall grant the Purchaser a reasonable additional period for taking delivery. If the Purchaser fails to take delivery within that additional period, the Purchaser shall be deemed to be in default of acceptance, provided that the statutory requirements are met.

6. If the Purchaser is in default of acceptance, the Supplier shall be entitled to require performance of the contract and to invoice the agreed purchase price. The goods may be stored or otherwise held at the Purchaser's risk and, to the extent permitted by law, at the Purchaser's expense.

7. Any and all additional cost arising from default of acceptance, in particular storage, handling, transport, insurance and administrative costs, shall be borne by the Purchaser. The right to claim higher damages shall be reserved.

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8. This shall not affect the right to assert any further statutory right, in particular the right to claim damages or to withdraw from contract in accordance with the relevant statutory provisions.

V. Retention of Title

1. Title to all goods delivered (the 'Retained Goods') shall remain with the Supplier until all current and future claims arising out of the business relationship with the Purchaser have been paid in full, irrespective of the legal basis on which such claims are founded.
2. The Supplier shall be entitled to insure the goods to be delivered against theft, breakage, fire, water damage and other damage at the Purchaser's expense, unless the Purchaser can provide evidence that it has taken out such insurance.
3. The Purchaser shall not sell, pledge or assign the goods to be delivered as security. In the event of attachment, seizure or any other measures taken by third parties, he shall notify the Supplier immediately.
4. If the Purchaser is in breach of the contract, particularly if the Purchaser is in default of payment, the Supplier shall be entitled, upon notice, to repossess the goods, and the Purchaser shall surrender them.
5. The Supplier may only claim return of goods delivered on the basis of retention of title upon his withdrawal from the contract.
6. Any processing or transformation of the Retained Goods by the Purchaser shall be carried out for the Supplier as manufacturer within the meaning of Section 950 of the German Civil Code (BGB), without creating any obligation on the part of the Supplier. If the Retained Goods are processed, combined or mixed with other items, the Supplier shall acquire co-ownership of the new item in proportion to the invoice value of the Retained Goods relative to the invoice value of the other items at the time of processing, combination or mixing.
7. If, by operation of law, sole ownership of the goods or of any product resulting from their processing vests in the Purchaser or a third party, the Purchaser shall, at the Supplier's request and without undue delay, provide equivalent security for the claims secured by the retention of title, including by way of security transfer, extended retention of title or the grant of a security interest in the processed product or any substitute claim. The Purchaser hereby assigns to the Supplier, by way of security, all claims arising from the resale, processing or other disposition of Retained Goods or any products derived from them, up to an amount equal to the invoice value of the Retained Goods. The Supplier accepts the assignment.
8. Upon request, the Purchaser shall provide the Supplier with information regarding the whereabouts of the Retained Goods or new goods at any time and shall make available the documents and information necessary for the enforcement of the Supplier's rights.

VI. Claims for Defect

Subject to Section VII, the Supplier shall be liable for material defects and defects of title in the delivered goods only as set out below.

Material Defects

To the extent that the Parties have agreed on the quality of the goods, the objective requirements applicable to the goods shall not apply.

1. Any part that proves to be defective as a result of circumstances arising prior to the transfer of risk shall, at the Supplier's discretion, be repaired or replaced with defect-free parts. The Supplier shall be notified of any such defects without undue delay and in writing. Any part replaced shall become the property of the Supplier.

2. To enable the Supplier to carry out any repairs or replacement deliveries it considers necessary, the Purchaser shall, after consulting with the Supplier, provide the Supplier with the necessary time and opportunity to do so. Failing this, the Supplier shall not be liable for any resulting consequences.

In urgent cases, particularly where operational safety is at risk or disproportionately serious damage must be prevented, the Purchaser may remedy the defect itself or have it remedied by a third party, provided that the Supplier is notified without undue delay. The Purchaser may claim reimbursement from the Supplier for the necessary expenses incurred.

3. Provided that the complaint proves to be justified, the Supplier shall bear the costs necessary for the purpose of remedying the defect, provided that this does not place a disproportionate burden on the Supplier. Insofar as costs are increased because of Purchaser having moved the goods of purchase to a location other than the place of performance after delivery, any additional costs arising therefrom shall be borne by the Purchaser. Furthermore, when selling a newly manufactured item, the Supplier shall, to the extent required by law, reimburse the Purchaser for any expenses incurred in connection with recourse claims within the supply chain.

4. If, subject to the statutory exceptions, the Purchaser grants the Supplier a reasonable period to remedy a material defect by repair or replacement and the Supplier fails to remedy the defect within that period, the Purchaser may withdraw from the contract in accordance with the applicable statutory provisions. In case of a minor defect, the Purchaser's sole remedy shall be a reduction of the contract price. Any further right of withdrawal shall be excluded.

5. Any further claim shall be governed exclusively by Section VII. 2 of these Terms and Conditions.

6. No liability shall be accepted, in particular, in the following cases: Unsuitable or improper use; faulty assembly or commissioning by the Purchaser or third parties; natural wear and tear; faulty or negligent handling; improper maintenance; unsuitable operating materials; defective construction work; unsuitable building ground; chemical, electrochemical or electrical influences, provided that the supplier is not responsible for them.

7. Supplier shall not be liable for any consequences resulting from repairs carried out improperly by the Purchaser or a third party. The same shall apply to any modifications made to the goods without the Supplier's prior written consent.

Defects of Title

8. If the use of the goods delivered infringes any industrial property right or copyrights in Germany, the Supplier shall, at its own expense, either procure for the Purchaser the right to continue using the goods or modify or replace the goods in a manner reasonably acceptable to the Purchaser such that no infringement remains.

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If this cannot be achieved on commercially reasonable terms or within a reasonable grace period. The Purchaser is entitled to withdraw from the contract. Under aforementioned conditions, the Supplier shall also be entitled to withdraw from the contract.

Furthermore, the Supplier shall indemnify the Purchaser against any uncontested or legally established claims relating to intellectual property rights made by the relevant rights holders.

9. Subject to Section VII. 2, the Supplier's obligations set out in Section VI.8 shall be the sole obligations of the Supplier in the event of any infringement of industrial property rights or copyright.

The foregoing shall apply only if

- the Purchaser notifies the Supplier with undue delay of any alleged infringements of industrial property rights or copyright. The Purchaser reasonably supports the Supplier in defending against the claims asserted and permits the Supplier to implement the modifications in accordance with Section VI. 8,
- the Supplier reserves the right to conduct and control any and all defensive measures, including the settlement of claims out of court, and (ii) the defect in title is not attributable to specifications, instructions or other requirements provided by the Purchaser and
- the infringement is not a result of unauthorized modification of the goods delivered by the Purchaser or from their use in a manner not contemplated by the contract.

VII. Supplier's Liability, Exclusion of Liability

1. If the goods delivered cannot be used by the Purchaser in accordance with the contract as a result of the Supplier's culpable failure to provide, or provision of incorrect, recommendations or advice before or after the conclusion of the contract, or as a result of the Supplier's culpable breach of any other ancillary contractual obligation, in particular with respect to instructions for the operation and maintenance of the delivered goods, the provisions of Sections VI and VII.2 shall apply exclusively, and any further claims of the Purchaser shall be excluded.
2. The Supplier shall be liable for damage other than damage to the goods delivered themselves, regardless of the legal basis, only
 - a. in case of wilful misconduct and gross negligence,
 - b. in case of a culpable injury to life, limb or health,
 - c. in case of defects fraudulently concealed,
 - d. within the scope of a guarantee assurance,
 - e. in case of defects in the goods delivered, in so far as liability arises under the Product Liability Act for personal injury or damage to property used for private purposes.

In the event of a negligent breach of a material contractual obligation, the Supplier shall be liable even for simple negligence; however, such liability shall be limited to reasonably foreseeable damage typical of the contract.

To the extent permitted by law, the Supplier's liability, regardless of its legal basis, shall be limited, both per claim and in the aggregate, to the sum insured under the Supplier's public liability insurance policy in force at the time of the event giving rise to the claim, which currently amounts to EUR 10 million.

Further claims shall be excluded.

VIII. Statute of Limitation

All claims by the Purchaser, irrespective of their legal basis, shall be subject to a limitation period of 12 months. This shall also apply to recourse claims within the supply chain pursuant to Section 445b(1) of the German Civil Code. The suspension of the limitation period under Section 445b(2) BGB shall remain unaffected; however, such suspension shall end no later than five years after the date on which the Supplier delivered the goods to the Purchaser. Such provisions concerning recourse claims within the supply chain and the suspension of the limitation period shall not apply where the final contract in the supply chain constitutes a consumer sale. The statutory time limits apply to claims for damages under Section VII. 2 (a) to (c) and (e). They shall also apply to defects in a structure and to goods delivered which, when used in their customary manner, have been incorporated into a structure and have caused the structure to be defective.

IX. Intellectual Property Rights, Copyright and Confidentiality

1. The Supplier retains title, all rights of use and copyright in all documents prepared by the Supplier, including quotations, drawings, designs, calculations, descriptions, models and other documents. Such documents may not, without the Supplier's prior express written consent, be reproduced, made available to third parties or used for any purpose other than that specified in the contract. They shall be returned in full to the Supplier immediately upon request or, if no order is placed, permanently deleted without undue delay.
2. If the Purchaser provides documents or other specifications, such as drawings, models or samples, on the basis of which the Supplier performs services or supplies goods, the Purchaser warrants that compliance with such documents or specifications will not infringe any third-party rights, including intellectual property rights such as patents, utility models, trademarks and copyrights. Should the Supplier be subject to a claim by a third party arising from such an infringement, the Purchaser shall, upon first demand, indemnify and hold harmless the Supplier, bear all costs arising therefrom (including reasonable legal costs), and provide the Supplier with all reasonable assistance in defending against such claim. In such case, the Supplier shall also be entitled to cease performance immediately without being obliged to investigate or assess the legal position.
3. All work products, developments, inventions, intellectual property rights (including patents, utility models, designs and trademarks), copyright-protected or otherwise protectable works, as well as technical know-how and confidential information (hereinafter collectively referred to as 'IP Rights'), created, developed or generated by the Supplier or third parties engaged by the Supplier in the course of or in connection with the performance of this contract, shall vest exclusively in the Supplier. Without the Supplier's prior written consent, the Purchaser shall not use, publish or exploit any of the intellectual property rights developed under the contract, in whole or in part, whether modified or unmodified, for its own purposes or in relation to third parties, unless this is necessary for the performance of the contract. Above provisions shall continue to apply even after the termination of contract.

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X. Test Components, Moulds, Tools

1. If the Purchaser provides parts, materials, fixtures or data for the performance of the order, delivery to the agreed production site shall be at the Purchaser's expense and risk. Materials supplied must be delivered in due time, free from defects and in quantities exceeding the net production requirement to the extent necessary to compensate for production waste. The Purchaser shall be solely liable for any delay, additional cost or consequential damage resulting from defective or late provision of material.
2. The costs for production of test parts, moulds, tools, gauges or any other production equipment required for the performance of contract shall be borne by the Purchaser, unless otherwise agreed in writing. Such products are developed and manufactured exclusively for the execution of respective order. Purchaser shall only be entitled to the return of such products or transfer of ownership if this has been expressly agreed in writing.
3. Ownership, as well as all industrial property rights and rights of use in relation to production equipment manufactured or procured by the Supplier, shall remain with the Supplier, even where the Purchaser contributes to the costs. The Purchaser's contribution to the costs shall not give rise to joint ownership, sole ownership or any rights of use, unless expressly agreed in writing. If a transfer of ownership has been agreed, such transfer shall not take place until all claims arising in connection with the order have been paid in full.
4. The Supplier shall only be obliged to replace production equipment that becomes unusable before the agreed output has been achieved where such failure is caused by the Supplier's wilful misconduct or gross negligence. The Supplier shall not be liable for normal wear and tear, force majeure, or the improper use of parts, materials, equipment or data provided by the Purchaser. The Supplier shall not be liable for normal wear and tear, force majeure or the improper use of parts, materials, equipment or data provided by the Purchaser.
5. Moulds, tools or production equipment provided by the Purchaser shall be handled by the Supplier with the same degree of care as it exercises in respect of its own property. Supplier is under no obligation to insure, service or repair such items. Such measures shall only be taken if expressly agreed and against separate remuneration. The Supplier's obligation to store such items shall end, irrespective of ownership, six months after their last use in production, unless the Purchaser requests their return in writing before that date or agrees to bear the subsequent storage costs.
6. The Supplier shall be under no obligation to return or surrender any production equipment unless expressly agreed in writing. Upon expiry of the agreed retention period, the Supplier may, at its discretion, dispose of or destroy such production equipment.

XI. Software usage

Where software is included in the scope of delivery, the Purchaser is granted a non-exclusive right to use the software supplied, including its documentation. It is supplied for use on the goods delivered for which it is intended. Use of the software on more than one system is prohibited.

The Purchaser may reproduce, modify, translate or decompile the software only to the extent expressly permitted under Sections 69a et seq. of the German Copyright Act (UrhG). The Purchaser shall not, without the Supplier's prior express written consent, remove or alter the manufacturer's information, in particular copyright notices.

All other rights to software and documentation, including copies, shall remain with the Supplier or software supplier. Sublicensing is not permitted.

XII. Applicable Law, Jurisdiction

1. All legal relationships between the Supplier and the Purchaser shall be governed exclusively by the laws of the Federal Republic of Germany as applicable between domestic parties.
2. The courts having jurisdiction at the Supplier's registered office shall have exclusive jurisdiction. The Supplier shall, however, also be entitled to bring proceedings against the Purchaser before the courts having jurisdiction at the Purchaser's registered office.
3. Where the Supplier provides services, such as assembly or installation services, the Supplier's Terms and Conditions applicable to such services shall apply mutatis mutandis in their current version.

XIII. Severability

Should any individual provision of these Terms and Conditions be or become invalid or unenforceable, in whole or in part, this shall not affect the validity of the remaining provisions. Statutory provisions shall apply in place of the invalid or unenforceable provision.

As of 4.8.2026