

Delivery Conditions of Extricom Extrusion GmbH
§1 General – Areas of application

- (1) The following regulations apply for business transactions with business enterprises, judicial professions of public law and public assets.
- (2) The following conditions only apply to our supplies. Contrary or conditions deviating from our conditions do not apply, unless we have expressly agreed to their validity. The following conditions also apply even in the event that we are aware of the customer's contradictory conditions or conditions deviating from our own, but still despatch the delivery to the customer without reservation.
- (3) These conditions apply for all future deliveries to the customer.
- (4) The customer may not return any goods back to us unless we had expressly given them our permission to do so. The preceding stipulations do not apply as long as the customer is subject to the German Law Book § 323 - law of rescission of the contract or may demand supplementary performances under § 437 no. 1. of the German Law Book.

§2 Offer – Documentation of an offer

- (1) Our offers are subject to change without notice and without obligation.
- (2) If the potential customer does not accept our offer within two weeks of its receipt, we are entitled to cancel it.
- (3) Any verbal agreement before or during the conclusion of the contract will only become valid with our written agreement.
- (4) Quotations are not binding and are liable to payment unless otherwise agreed upon.
- (5) We retain the right of ownership, copyright and commercial property rights such as patents, protection of utility patents, semiconductor rights for all samples, illustrations, drawings, calculations and other documents as well as software, data carriers, data storage mediums. This also applies to self-made copies and mass produced copies.

§3 Prices – Payment Conditions

- (1) Invoicing is based on the actual price at the time of delivery with the addition of value added tax. Value added tax will not be included if the stipulations for an omission of such tax have been issued.
- (2) Unless a special agreement has been made, prices are quoted "ex works" (Incoterms 2010) with the exception of packing.
- (3) We retain the right to adjust our prices appropriately if after conclusion of the contract, costs either drop or go up, especially owing to alterations in currency exchange rates. We may also adjust prices according to amended wage costs, e.g., after a new tariff agreement has been made or if the cost of materials has changed.
- (4) The supplier is not bound to supply consecutive supplies at the prices of previous deliveries. Prices and invoicing are quoted in euros. The minimum invoice amount is €100.00 plus the current rate of value added tax. If orders are placed with a value below this level, the supplier is nevertheless entitled to invoice at the minimum level of €100.00.
- (5) Replacement deliveries and returned dispatches of repaired goods in so far as these are not impeded by faults, will be dispatched with the levying of an appropriate lump sum to cover dispatch and packing costs in addition to remuneration for our workmanship.
- (6) Invoices for tool costs, mould costs, development costs, sample deliveries and machine deliveries are to be paid without deduction within 8 days of the date of invoice. In all other cases the invoices are to be paid with 2% discount within 14 days or net within 30 days of the date of invoice without deduction.
- (7) We can however require that delivery be with payment, e.g., by cash on delivery, or by bank direct debit or by payment in advance.
- (8) We are entitled, to invoice in addition for payment of the latest amount still open.
- (9) If the payment period is exceeded we are entitled to charge interest on arrears to the amount of 9% over the basic interest rate. This does not waive the possibility of further action being taken.
- (10) Payment by Bill of Exchange is only permissible after previous arrangement with us. Bills of Exchange and cheques received by us are only considered a valid payment after their encashment. The entire costs of encashment including discount and exchange costs will be charged to the customer and are to be settled immediately.
- (11) If the customer errs into default of payment we are entitled to demand cash payment for all current and non-relied demands of our business transactions. This right is not exonerated by deferral of payment or the acceptance of Bills of Exchange or cheques.
- (12) The right to withhold payments or to offset counterclaims against the invoice is only applicable to the customer in so far as their counterclaims are undisputed or legally binding.

§4 Delivery date; Delivery, Delay

- (1) Commencement and adherence to the agreed upon delivery dates require the fulfilment of the associated obligations, especially the punctual receipt of all the documents, approvals, inspections, clearances and the adherence to agreed upon payment conditions by the customer. If these requirements are not punctually fulfilled, then the delivery date will be extended accordingly. This does not apply if the supplier alone is responsible for the delay.
- (2) If failure to comply with the delivery date is owing to force majeure or disruptions not caused by us, such as war, terrorist attacks, import and export restrictions, industrial disputes, even those that affect the supplier, then the agreed upon delivery date extends itself accordingly.
- (3) If we are late in dispatching our delivery, we may require the customer to inform us in an appropriate time if they, on account of the delay of the delivery, will withdraw

- from the contract and/or require compensation for damage instead of the accomplishment of the order or if they will insist on the delivery of the order.
- (4) Claims for damage compensation owing to delay in delivery is subject to §10.
 - (5) If the customer requests that dispatch or delivery be delayed more than a month after readiness for dispatch, the customer is liable to be charged 0.5% of the price of the goods to be delivered or at the most 5% of the goods to be delivered. Proof of greater or lower storage costs is left to the contractual parties to decide. Further claims on account of delayed delivery remain unaffected.
 - (6) Part deliveries and their corresponding invoices are permissible, unless they are unacceptable to the customer.
 - (7) If the customer falls into default of acceptance or if they infringe other appertaining obligations, we will thereby be entitled to demand compensation for damage including the ensuing additional expenditure. In this event there is also the danger of a coincidental downfall or a coincidental aggravation of the business transaction occurring for the customer at this time, in so much as they have in default of acceptance, respectively, are hindering their co-operative obligations.

§5 Transfer of risk – Packing Costs

- (1) Delivery is "ex works" (Incoterms 2010) unless another arrangement has been made in writing.
- (2) The person signing the delivery note is considered by us to be a fully authorized person to accept and to confirm acceptance of the delivery. These people are considered authorized to acknowledge the delivery documents by signing the delivery note.
- (3) Transport and disposable packing will not be taken back by us.
- (4) If the customer wishes we will at the customer's expense insure the delivery against the usual transport risks.

§6 Complaints and notice of defects

- (1) Recognizable material defects are to be reported by the customer in writing within 15 days of their receipt of the goods. Cardboard box labels, content labels and control labels appertaining to the dispatch are to be returned back to us with the notice of defects. Any other material defects are to be reported in writing by the customer immediately after their discovery. It is decisive, however, that we receive the notification of the defects. Drivers, laboratory technicians and departmental managers etc. are not authorized to take receipt of notice of defects.
- (2) If a notice of defect is not valid, then we are entitled to demand compensation from the customer for costs arising out of our involvement.
- (3) The customer may not refuse acceptance of delivery of the goods for reasons of negligible fault to them.

§7 Warranty for defects

- (1) Material defects fall under the statute of limitation in 12 months. Preceding agreements are not valid in so far as the law according to §§ 438 Sec. 1 no. 2 (Building construction and equipment for buildings), 479 Sec. 1 (Right of recourse) and § 634a (Construction defects) of the German Law Book does not allow a longer period of limitation.
- (2) The time limitation of defect to the goods begins with the transition of the matter (transfer of risk).
- (3) On presentation of a defective goods item within the statute of limitation, the cause of which was already evident at the time of the transfer of risk, we are entitled in our role to provide supplementary performance to either choose to eliminate the defect or to supply a corresponding fault free goods item.
- (4) With the provision of supplementary performance the statute of limitation begins anew.
- (5) If the supplementary performance is not successful, the customer, irrespective of possible compensation claims, may withdraw from the contract or reduce the remuneration.
- (6) Claims by the customer for costs arising from fulfilment of the supplementary performance, such as expenses incurred, particularly transport, means, work and material costs are excluded in so far as the increase in expenses arise from having to subsequently deliver the goods item to another venue as that of the location of the customer, unless this conveyance corresponds to the appertaining utilization of the goods item.
- (7) Claims for material defects are not valid if the goods are used inappropriately to their designated use or by unauthorized interference of their normal use.
- (8) Material defects are not
 - (a) those arising from utilization or from normal wear and tear;
 - (b) change in the features of the goods or damages occurring after the transition of risks owing to inappropriate handling, storage or assembly or non-observance of the installation and handling stipulations, excessive demands or use or deficient maintenance or service;
 - (c) change in the features of the goods or damages arising for reasons of force majeure, particularly external influences, which were not stipulated in the contract or for reasons arising from the utilization of the goods differing to those set out in the contract or deviating from those set out in the contract;
 - (d) non reproducible software faults;
 - (e) material defects are not valid, if the goods are altered or expanded with parts from non-approved suppliers or when accessories or spare parts are fitted from non-approved suppliers, unless it is the case that the defect does not arise from the effect of the installation of parts from non-approved suppliers or the utilization of the goods. We are not liable for the features of the goods which affect the construction or the choice of materials, in so far as the customer has specified the construction or the material.

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(9) Claims of recourse by the buyer against us can only exist if the buyer with their customer have not made legal claims for defects as laid down in the contract, e.g., ex gratia payment.

(10) Claims for material defects including claims of recourse by the customer are excluded in so far as the customer has allowed the elimination of the defect to be carried out by a non-approved specialist workshop /service station.

(11) §7 Sec. (3), (6) and (7) do not apply in so far that it can be shown that our product was sold as part of another product without processing or installation by the buyer or customer of the buyer to an end-user.

(12) Our obligation to pay compensation for damages and reimbursement for futile utilization in terms of § 284 of the German Law Book for reasons of material defects complies with §10. Additional or other claims for material defect by the customer as those regulated in §7 are precluded.

(13) Defects of title which are not founded on the infringement of third party liability, are correspondingly subject to the stipulations of §7.

§8 Protection and Copyright Law

(1) The customer is under an obligation in relation to the seller to observe third-party property rights, in particular patents and/or utility patents, when using and/or handling the contractual item or contractual items.

(2) At the first request the buyer will indemnify the seller against any claims from third parties which the latter assert against the seller due to a breach of property rights, in particular patents and/or utility patents, associated with the use and/or handling of the contractual item or contractual items by the buyer. The seller's claim for indemnification in relation to the buyer also includes all legal defense costs incurred by the seller through the fact that claims are asserted against the latter by third parties due to a breach of property rights, in particular patents and/or utility patents, associated with the use and/or handling of the contractual item or contractual items by the buyer.

(3) We are not liable for claims arising out of infringement of commercial property rights or copyright of third parties (in the following this will be expressed as copyright protection), if the copyright protection is in the possession of the customer or respectively of one of their own enterprises which have direct or indirect majority capital or voting rights.

(4) We are not liable for claims arising from the infringement of copyright protection if there is not at least one copyright protection of the copyright protection family published either by the European Patent Office or in one of the Lands of the Federal Republic of Germany, or Departments of France, Counties of Great Britain, Lands of Austria or States of America.

(5) The customer has to inform us immediately of any known (or reportedly known) infringement of copyright protection or respectively of the risk of doing so and at our request to let us to engage as far as possible in legal proceedings or settlement out of court on our own.

(6) We are entitled to choose to either obtain the legal right to utilization of a product that infringes copyright protection or to modify it so that will not infringe the copyright protection or replace it with a similar product that does not infringe the copyright protection. If this proves impossible for us to achieve under the appropriate conditions or length of time, the customer is entitled to legally withdraw from the contract provided he allowed us to carry out a modification of the product. A withdrawal from the contract is also possible for us under the designated prerequisites. The regulations of §7 no. §7(9) correspondingly apply. We retain the right according to this §8 no. (6) clause 2, to grasp the measures available to us, if the copyright protection infringement has not yet been legally valid or recognised by us.

§9 Reservation of Property Rights

(1) We reserve the right to retain ownership of the delivered goods until completion of all the entitlements and ensuing rights of the business transaction agreement.

(2) The buyer is entitled to use or to integrate our products in the framework of their regular business operations. We acquire the title of co-ownership of the products achieved through the treatment or integration for our protection under §9 no. (1) designated rights of shared ownership which the buyer now transfers to us. The buyer has to safeguard the product of which we are the shared owners, under contractual obligations without payment. The amount of our ownership share is determined by the proportion of the value our product, through its treatment and integration has, at the time the ensuing derivational product is completed.

(3) The buyer is entitled to resale in regular business transactions on payment by cash or under reservation of property rights. The buyer now assigns us all the due prerequisites with ancillary rights to the full amount arising from the appertaining payment out of the resale of our product. This is independent of whether our product was processed or not. The transferred payments serve the protection of our entitlement according to §9 no. (1). The buyer is entitled to the collection of the transferred entitlement. We may revoke the rights of the buyer in this respect according to §9 no.

(3), if the buyer does not fulfil his contractual obligations to us, especially if buyer delays in payment. These rights are automatically rescinded even without an expressed revocation, if the buyer delays his payment longer than momentarily.

(4) At our request the customer has to inform us immediately in writing of whom he resold the goods to, which through the integration of our own product makes us owner or part owner of them. He also has to inform us of the payment he is entitled to out of the resale, as well as, to issue us an official certified certificate at their own cost relating to the relinquishment of the transferred claims.

(5) The customer is not entitled to other disposals of existing products under our ownership or shared ownership or over transferred claims made over to us. The customer is to inform us immediately of any confiscation or other legal encumbrances appertaining to our fully owned or partly owned possessions. The customer is to bear all the costs for the removal of the access of a third party to our goods held under title or

that of our pledged property as well as to bear the costs for their recovery in so far as they have not been confiscated by a third party. By delay in payment or other such culpable breach of essential contractual obligation of the customer, we are entitled to demand the release of existing objects subject to or pledged to ourselves. If we make use of this right, then a withdrawal from the contract will subsequently follow if we expressly demand this.

(6) The application to open up bankruptcy proceedings entitles us to withdraw from the contract and to demand the immediate return of the deliveries.

(7) If the value of the securities exceeds our demands by more than 10%, then the customer may demand that we accordingly release securities at our discretion.

§10 Compensation for Damages

(1) Unless otherwise stipulated in these delivery conditions we accept liability for compensation for damages and compensation for ineffective utilization in terms of §284 of the German Law Book (forthwith as "compensation for damages") owing to breach of contractual or non-contractual liabilities only in the event of premeditation or gross negligence of our official representative or authorized assistant, in the event of injury to life, of the body or health, or because of the acceptance of a guarantee or a procurement risk, or the infringement of essential contractual obligations owing to urgent liabilities according to the product liability law or other urgent liabilities.

(2) Compensation for damages for the breach of essential contractual obligations is however limited to the typical contractual predictable damages in so far as neither premeditation nor gross negligence by our official representative or authorized assistant is evident or because of injury to life, the body or the health or because of the acceptance of a guarantee or of a procurement risk causing liability.

(3) An amendment of the onus of proof to the disadvantage of the customer is not included with the above mentioned regulations.

§11 Secrecy

(1) Any business or technical information originating from us, including prominent features, which are to be gleaned from handed-over products or software and that of any other knowledge or expertise, are to be kept secret from third parties in as much as they are not to be officially published or permitted by us to be broadcast by the customer. They may only be made known to persons in the enterprise of the customer who are expressly authorized to handle such information. These people are likewise to swear to secrecy. This information exclusively remains our possession.

This information may not be reproduced or commercially used without having first obtained our written permission. At our request all such original information; respectively reproduced copies or drawings as well as subject matter lent out, have to be returned to us promptly in their entirety or are they are to be destroyed.

(2) We retain all the rights appertaining to §11 no. (1) specified information including copyrights and the right to register commercial copyrights, such as patents, trial samples and semiconductor protection etc.

§12 Final Clauses

(1) If a stipulation of these conditions and the corresponding ensuing agreement is or becomes invalid, the validity of the remainder of contract will not be affected. The contractual partners are obliged as far as possible to replace the ineffective clause by a mutually agreed upon economically viable clause.

(2) In so far as there is no mention of a place for the fulfilment of the law stated in the order confirmation, it will be our registered office which will be the location of legal fulfilment.

(3) The place of the court of jurisdiction is located at the registered office of our enterprise or if we request at the location of the operating plant where the order will be carried out if the customer is a commercial clerk or does not have a general domestic place of jurisdiction or after having signed the contract moved home or changed his usual place of residence within the country or if his home or usual place of residence at the time of commencement of the legal action is unknown. We are also entitled to call up a court which is responsible for the location of the registered office or for the subsidiary of the customer.

(4) The rule of law in the Federal Republic of Germany applies. The application of the unified law for the conclusion of international purchase agreements regarding moving subject matters (EKAG), the unified law for international purchases of moving subject matters (EKG) as well as the United Nations Law on the International Sale of Goods is excluded.

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