

General Terms and Conditions
der Peter Wahl GmbH & Co. KG
-Stand 2007-

1. General Conditions

1.1 (Scope) These General Terms and Conditions are only applicable for business transactions with entrepreneurs.

1.2 (Colliding Conditions, Written Form, Collateral Covenants) These General Terms and Conditions are applicable for the contract; other terms will not be part of the contract, even if we do not oppose them expressly. The customer may only refer to collateral covenants before and at conclusion of a contract if they are confirmed by us immediately in writing.

1.3 (Reservation of Changes, Data Collection) Our offers are subject to alterations. We may store data which are important for handling the contract in our EDP system.

1.4 (Setoff, Retention) Setoff or retention by the customer is only permissible in case of indisputable or legally recognized claims.

1.5 (Place of Performance, Place of Jurisdiction, Applicable Law) Place of performance is our plant in Kreuzwertheim. Any disputes will be settled before the competent court in Gemünden/Würzburg; however, we are also entitled to take legal action against the customer at the competent court for the customer's location. German law will be applicable, the application of the UN Conventions on Contracts for the International Sale of Goods (CISG) is excluded.

2. Delivery, Risk, Delivery Costs

2.1 Partial deliveries are permissible We reserve the right to deliver 5% more/less than the quantity ordered. The customer must accept and pay quantities delivered within this range.

2.2 For orders on call and 6 months after the last partial delivery, we are entitled to request purchase and payment of the remaining quantities within an additional period of two weeks.

2.3 The risk passes to the customer as soon as the goods leave our plant, even if we arrange delivery, export or installation.

2.4 The customer will pay all transportation, packing and insurance costs.

3. Delivery Times, Delay, Damage Caused by Delay

3.1 Delivery times are ex works. They start only after all technical questions, which may have been open on conclusion of the contract, have been clarified, after receipt of all documents to be presented by the customer, e.g. drawings and approvals, and/or advance payments as well as production releases. Subject to correct delivery to us in time. We will inform the customer immediately about the non-availability of the goods to be delivered.

3.2 Acts of god as well as strikes, lockouts, interruptions of work, procurement problems and/or delays of failures of delivery by sub-suppliers, which are beyond our control; will prolong the delivery times by the period caused by these acts. The same will apply if the customer requires additional or modified services.

3.3 In any case, our delivery requires a reminder by the customer indicating an appropriate new deadline.

3.4 For damages caused by delay we restrict our liability for a compensation in addition to the service to 5% and for a compen-

sation instead of the service to 10% of the value of our delayed delivery/service. This limit is not applicable in case of intent, gross negligence and/or damage to life, body or health.

4. Prices, Payment, Terms, Securities

4.1 Our prices are ex works. If applicable, VAT will be added.

4.2 Prices for replacement parts require special agreements.

4.3 Tools/moulds have to be paid by the customer as follows; one third upon placement of order, one third upon presentation of samples and on third upon release of first sample out of tools; however, at the latest within 30 days after receipt of the first samples out of fall. The approval of a tolerance is considered as a release.

4.4. Invoices have to be paid immediately without discount, except where otherwise agreed in writing.

4.5 In case of payment delays and/or justified doubts about the credit-worthiness of the customer, we may make each individual delivery conditional on payment in advance or securities to the amount of the invoice.

5. Retention of Title, Assignment in Advance

5.1 The goods delivered remain our property until complete and unrestricted payment by the buyer. If further claims against the customer exist, the retention of title remains until these claims have been settled.

5.2 The customer may sell goods subject to retention of title only – within proper business activities- if his claims resulting from the sale have not been ceded, pledged or seized in any way.

5.3 The customer shall not connect goods subject to retention of title with other items, where a third party holds rights to such an item. If goods subject to retention of title are connected with other items and thus become part of a new (complete) item, we are entitled to an immediate and proportionate co-ownership, even if the item is to be considered as a main item. The share of our co-ownership is calculated according to the ratio of invoice value of the goods subject to retention of title and the value of the new item at the time of connection.

5.4 As a security, the customer shall assign to us in advance all claims against his buyers arising from the sale of goods subject to retention of title (see 5.1) and/or newly formed items (see 5.3) to the amount of our invoice for the goods subject to retention of title. As long as the customer does not fall in arrears with the payment of goods subject to retention of title, he may collect the assigned claims in the proper course of business. However, the proportionate proceeds may only be used for paying the goods subject to retention of title.

5.5 By request of the customer we may release securities at our discretion, if and as far as the nominal value of the securities exceeds 120% of the nominal values of our open claims against the customer.

5.6 In case of arrears we are entitled to withdraw from the contract and/or without withdrawing from the contract demand the return of goods subject to retention of title, which may be in the possession of the customer, and collect the assigned claims on our own. In order to identify our entitlements we may ask a person

obliged to professional discretion to review the customers' documents/books which would be relevant to our retention of title rights.

6. Defects and Replacements

6.1 We are liable that our goods delivered are free of defects upon passage of risk. However, irrelevant deviations from the quality agreed or inessential impeding of usability are insignificant. The quality, durability and usability of our goods supplied comply exclusively with the specification or product description as per written agreement. Additional characteristics particularly according to preliminary discussion and/or referring to industrial standards require written confirmation to become a part of the contract. If the customer intends to use the goods supplied for other purposes than those agreed, he alone will be responsible for checking their suitability and/or permissibility carefully. We shall not be liable for other uses which have not been confirmed by us expressly and in writing.

6.2 Subsequent performance (according to § 439 BGB) is at our discretion either rectification of faults or delivery of faultless products. In case of refusal, impossibility or failure of subsequent performance the customer is entitled to demand a reduction of the purchase price or to withdraw from the contract.

Higher expenses for subsequent performance, which may result from the fact that after delivery the products have been sent to a different place than the agreed place of performance, will be paid by the customer.

6.3 The customer is required to examine the products carefully and immediately after receipt – also regarding product safety - and to notify us immediately of visible defects; hidden defects have to be reported immediately upon discovery. Damages in transit have to be reported immediately to the forwarder. If the customer fails to examine the goods and notify us of defects we shall not be liable for defects or damages.

6.4 We shall not be liable for the consequences of improper treatment, use, maintenance or operation of the goods either by the customer or his assistants as well as normal wear.

6.5 Our liability for slight negligence shall be limited to claims for damage to life, body and health, to claims resulting from product liability and to claims due to culpable violation of substantial contractual obligations, which may endanger the purpose of the contract. As for the rest, our liability for slightly negligent violation of substantial contractual obligations will be limited to the damage which may typically occur and may typically occur and may be foreseen upon conclusion of the contract.

6.6 The statutory period of limitation for claims to us relating to defects is one year after delivery of the goods to the customer. The same will apply to any claim of damages regardless of the reason.

The statutory period of limitation does not apply to claims resulting from fraudulent withholding of a defect, for claims resulting from product liability as well as for claims resulting from damages to life, body or health and to other damages which are caused by intent or gross negligence.

7. Production Equipment (Tools, Moulds, Appliances)

7.1 Unless otherwise agreed with the customer, we are and remain the owners of the production equipment produced for the customer, even if the customer has contributed towards the expenses.

7.2 Production equipment in our possession which is based on the customer's patented samples will not be used for the orders of other customers. If the production equipment is based on our own samples and/or developments, we may use this production

equipment for other customers as well.

7.3 If the customer agrees to purchase the production equipment, ownership will only pass to the customer after complete payment.

7.4 For production equipment owned (see 7.3) or provided by the customer we will be liable for storage and care only in the same way as for our own equipment.

Inspection, maintenance and servicing costs will be paid by the customer. The customer as owner/provider will bear the risk of accidental destruction of the production equipment and will be responsible for the insurance thereof.

Our obligation of storage will end after finishing the order. We may request the customer to collect the production equipment owned or provided by him within a certain period of time. After that time has expired we are entitled to either store or scrap the production equipment at the customer's expense.

We are entitled to exclusive ownership of the production equipment until the minimum quantity agreed has been purchased. In addition to that we are entitled to retain the production equipment owned and/or provided by customer, until all our claims have been settled.

7.5 We are only obliged to deliver the quantities agreed; we are obliged to guarantee subsequent delivery or deliveries of replacement parts or store the production equipment.

8. Industrial Property Rights, Secrecy

8.1 We reserve ownership as well as all proprietary and intellectual property rights for our developments, designs, samples, drawings, technical documentation, quotation or offers, even if the customer has paid the costs for the designs, etc.. The customer may use the designs, etc. only in the way agreed with us. The customer shall not produce or mark a third party produce the products without our written approval.

8.2 If we deliver products according to the customer's specifications, the customer will guarantee us that the production and delivery of these products do not infringe industrial property rights or any other rights of third parties. The customer shall indemnify us for all claims resulting from such infringements.

8.3 The customer shall not disclose to third parties all knowledge resulting from the business relationship with us, which is not deemed to be public knowledge.