

# **General Terms of Sale and Delivery of STFG Thüringer Filamente GmbH**

**version of 01/03/2021**

## **§ 1 General provisions**

Exclusively the following Terms of Sale and Delivery apply to all deliveries and services of the Seller. The Seller does not accept any General Terms and Conditions of the Buyer, unless the Seller had expressly agreed to their applicability in writing. This shall also apply if the Seller performs the contract without reservations and in knowledge of contrary terms or terms deviating these Terms of Sale and Delivery.

## **§ 2 Conclusion of the contract**

Our quotations are always subject to change. Orders and verbal side agreements shall become binding on us only if we acknowledge them in the form of an order confirmation or object to them by shipping the products or sending the invoice.

## **§ 3 Place of fulfilment, prices, delivery and acceptance**

### **1. Place of fulfilment**

The place of fulfilment for all performances under the delivery contract is the place of the Seller's registered office.

### **2. Prices**

Unless stated otherwise in writing, prices apply ex-factory of the respective production site. Prices are understood to be plus the currently valid value added tax. Confirmed prices will apply only if the confirmed quantities are accepted. The Seller is entitled to adjust the sales prices to any price and cost increases, changes in freight costs, customs duties, taxes, levies and similar arising after the conclusion of the contract. All indications such as dimensions, weights, quality, assured properties and condition, illustrations, references to colours, product samples, descriptions, etc. contained in quotations, sample books, price lists, brochures, and other general documents have been determined to the best of our ability, but they apply merely as approximates and are subject to change.

### **3. Delivery**

The careful choice of the shipment method or the means of transport remains reserved for the Seller. If a different mode of transport is permitted on the Buyer's request, the extra costs will be charged to the Buyer and they can be billed as cash on delivery.

Delivery to the shipping address or place of use presupposes an unobstructed, reasonable drive to the destination.

The date and time when the products are handed over to a carrier, freight transporter or other person or entity assigned with the performance of the shipment or when the products are made available to the Buyer as ready for shipment shall be regarded as the date and time of the delivery and transfer of risk. The adherence to the delivery period requires the fulfilment of the customer's contractual duties.

Partial deliveries are permissible. If the Seller is in delay with a partial delivery or part performance, the customer shall have the right to withdraw from the contract only if the part performance of the contract cannot be used by it and if Sec. 5.1 is fulfilled.

If partial deliveries are initiated before the due date on the Buyer's request, the arising extra costs shall be borne by the Buyer.

The products shall be packaged by the Seller as customary in the industry.

#### 4. Acceptance

If the acceptance of a contractually agreed delivery does not take place on time at the Buyer's fault, the Seller shall have the right, at its choice, to either invoice the merchandise as due immediately after the expiration of a grace period of 15 calendar days to be set (invoice for arrears), including any price increase having occurred since the conclusion of the contract, or to withdraw from the contract and claim damage compensation.

#### **§ 4 Content of the contract**

1. The delivery of the products on dates to be determined (set weekday or determined calendar week). All contracts shall be concluded only for certain quantities, items, qualities and fixed prices. Both Parties shall be bound by this.

#### **§ 5 Delivery disruptions**

1. The Seller shall adhere to the agreed delivery periods and delivery dates wherever possible. A delay in delivery shall not give the Buyer the right to withdraw from the contract and/or claim damage compensation. If the delivery, however, has also not been made within a grace period of at least 8 weeks to be set by the Buyer, the Buyer shall have the right to withdraw from the contract, notably to the extent the delivery has not been made yet.

2. Before the expiration of the grace period, claims of the Buyer for belated delivery are precluded.

3. Consequential damages are precluded in all cases.

4. Force majeure, business disruptions, shortages of raw materials, energy or workforce, failure of upstream suppliers to meet deadlines, strikes, lockouts, problems in shipment, sovereign acts, political unrest, and similar unanticipated obstruction shall result in a release from the delivery obligation for the duration of the obstruction and to the extent of its effect. If circumstances of the aforementioned nature make delivery or performance impossible, the Seller shall be released from its obligations.

If the delivery is delayed by more than two months, the Seller and the Buyer shall have the right to withdraw from the contract with regard to the quantity affected by the delivery interruption and provided that the product has not been manufactured yet. No other claims apply.

#### **§ 6 Warranty and damage compensation**

1. Warranty is granted only for merchandise of first grade quality. It is merely warranted for such products that they meet our general quality standard. If lower qualities are agreed, any warranty shall be excluded.

2. The Buyer shall test whether the delivered merchandise is free from defects and suitable for the intended use, without delay and, if necessary, by means of a trial processing. If the customer omits this test, the warranty will lapse. Notices of defects or other complaints shall be made in writing without delay, whereas at the latest within 30 days from receipt of the products, by sending records, samples, packing slips, packaging, etc. and stating all order and delivery data. In case of hidden defects, the notice of defect must be given immediately upon discovery, whereas at the latest within two months upon the receipt of the products. The Buyer has the burden of proof to demonstrate that a hidden defect is present. If a defect is detected, the further processing of the material shall be stopped and the possibility of a replacement delivery shall be provided upon consultation with the Seller as part of the best possible claim adjustment. Damage compensation claims for consequential damages, which result from defective material, shall generally be acknowledged only up to max. 100 running metres of the product produced by the customer. To this end, a damage compensation claim for breach of essential contractual duties shall be limited to the predictable damage that is typical for the contract.

3. Claims for outstanding defects will lapse if the delivered merchandise has been processed or conditioned in any form. Claims based on hidden defects shall lapse for the merchandise that the Buyer processes or conditions in any form or that it resells in processed or conditioned form, after it has or it should have discovered the hidden defect. In case the merchandise for which a notice of defect has been given is processed or conditioned, the Buyer may claim the rights resulting from the timely notice of defects if the processing or conditioning has taken place for the purpose of preventing an otherwise occurring greater damage and only if the Seller has approved this in writing.

4. In the case of timely and justified notices of defect, the Seller may make replacement deliveries without the prior return of the rejected merchandise in the original condition or, at its choice, reduce the purchase price at the same rate as the value of the delivered product is reduced. Returns of any kind must be made according to the Seller's instructions. Claims for damage compensation, reduction and withdrawal from the contract are excluded. If the customer proves that it is no longer able to return the rejected merchandise in the original condition in subsequence to processing or conditioning, the reduction of the purchase price according to the foregoing provision shall be applied to the processed or conditioned part of the defective products.

5. No payments may be withheld or offset against potential damages or claims of damages of third parties.

6. No warranty is assumed for damages caused by unsuitable or improper use, defective processing, natural wear and tear, or excessive use. No warranty is given for damages that are caused by third parties interfering with the object of delivery.

## **§ 7 Acceptance of returns and cancellation**

A return of merchandise procured on special order from the customer without a corresponding legal obligation is excluded. If the Seller agrees to a cancellation of the contract before delivery without a legal obligation to do so, appropriate remuneration for the expenses shall be paid.

## **§ 8 Payment**

a) The payment shall be made within 30 calendar days from the invoice date, without any deductions, unless agreed otherwise and indicated on the invoice. The calculation base for any discounts shall be the merchandise value.

- b) Payments will always be applied to settle the oldest debt item plus any accumulated default interest.
- c) Up until the encashment of accepted cheques and bills of exchange or until payments are made on assigned receivables, the Seller's claims and their maturity shall remain valid unchanged. Expenses for discounting, protests and collection in the case of bills of exchange shall be borne by the customer.
- d) Offsetting against counterclaims shall be excluded, unless it is offset against a claim, which has been acknowledged by the Seller or established as final and absolute.
- e) If the Buyer comes to be in arrears with a due payment for more than one week or if its bill of exchange is protested or its cheque not encashed, all claims arising from the business relationship will become due immediately. In case of a belated payment, subject to further rights, interest of 5% p.a. above the respective discount rate of Deutsche Bundesbank – whereas at least 8% p.a. – shall be paid on the outstanding amount. All negative consequences resulting from this default shall be borne by the Buyer. Claims of higher damage due to default remain reserved.
- f) Payment delay, reasonable doubts as to the ability or willingness to pay, deteriorating financial circumstances of the Buyer according to information from the bank or the commercial loan insurer of STFG-Filamente GmbH shall entitle the Seller to withhold further deliveries until the owed payment including interest has been made in full. If the Buyer fails to pay a due invoice in spite of a dunning within an appropriate period to be set in the dunning notice, the Seller – without prejudice to the other rights resulting from default – shall be entitled to withdraw from the contract without requiring a further deadline to be set. In case of deliveries and partial quantities, the Seller shall also be entitled to make subsequent demands for prepayments or sufficient collateral for the still outstanding partial deliveries. In addition, the Seller is authorised to take the delivered merchandise into possession under the reservation of title, without thereby automatically exercising the right to withdraw from the contract.

## **§ 9 Reservation of title**

1. The title to the delivered merchandise shall remain reserved for the Seller until the Buyer has satisfied all liabilities arising from the reciprocal business relationships, including the settlement of any on-account balance and the encashment of cheques or bills of exchange.
2. The Seller's ownership shall also extend to the results of processing, combination or mixing with objects not belonging to the Seller. The Buyer is obligated to clearly identify the merchandise and yarn carriers or the merchandise and products for which it holds a claim to joint ownership, and store them carefully and insure them for fire, theft and other damages. The Buyer is not entitled to pledge these products or transfer them by way of security to third parties. Pledges and other control obtained by third parties as relates to the objects or rights of the Seller shall be reported immediately by the Buyer.
3. All claims, including cheques and bills of exchange resulting from the sale of the products that are subject to the reservation of title of present or future deliveries are assigned by the Buyer on this day already to the Seller as collateral for the claims based on numbers 1 and 2. In the case of merchandise in the joint ownership of the Seller according to number 2, the assignment shall be limited to the portion of the claim that is equivalent of the joint ownership share; the same shall apply analogously if the products subject to the reservation of title are sold together with other objects for one total price.

4. For as long as the Buyer correctly fulfils its obligations in relation to the Seller, in particular for as long as it is not in default, it may process the products subject to the reservation of title and dispose over them in the ordinary course of business and collect the receivables assigned to the Seller on its own.

In the event of a sale, the Buyer shall make the transfer of the ownership of the delivered merchandise or the products manufactured from them contingent upon the payment of the purchase price claim. The Buyer is obligated to assert the rights resulting from this reservation of title in favour of the Seller, if the Buyer is in default of payment.

5. If the Seller believes the recovery of its receivables is at risk, in particular if the Buyer comes to be in arrears of payment, the Buyer shall inform of the stockpile of products subject to the reservation of title, including the products manufactured from them, as well as the still outstanding receivables from the sale of the products that are subject to the reservation of title on request by the Seller and provide all information and present all documents.

6. Pledging of the Seller's products subject to the reservation of title and transfers by way of security are not permissible. Measures by third parties, who imperil the rights of the Seller, shall be reported in writing to the Seller without delay. In case of attachments, the customer shall transfer a copy of the attachment report to the Seller without delay. The customer must inform the Seller in writing without delay of any interference in the Seller's rights by third parties. The Buyer shall bear the costs of intervention.

#### **§ 10 Place of jurisdiction**

The place of fulfilment and place of jurisdiction for all claims arising from this contractual relationship is Rudolstadt.

#### **§ 11 Miscellaneous**

1. The contractual relations with the Seller are governed by the law of the Federal Republic of Germany.

2. In the case of any invalidity of individual clauses, the other parts of the foregoing conditions and the contract shall stay in full force and effect.