



Terms of delivery and performance as of July 2019

1. Scope

- 1.1. These terms of delivery apply for all contracts between Plauen Stahl Technologie GmbH ("we", "our" or "us" below) and companies, legal person under public law and fund's assets under public law ("Customer" below) in which we undertake to deliver or hand over movable property. They also apply for all future contracts with Customer in the meaning of sentence 1 without us having to draw attention to the applicability of these terms of delivery.
- 1.2. These terms of delivery apply exclusively. Contradicting or additional general terms and conditions of Customer apply only to the extent to which we have expressly agreed to them. We expressly oppose the applicability of any terms of Customer that were not expressly agreed and oppose them expressly also for the future.
- 1.3. In case any deviating terms are agreed in individual contracts, they shall be subordinated and complementary terms.

2. Bids, conclusion of contract, parts of contract

- 2.1. Our bids are subject to confirmation in the meaning that a contract shall be established only upon our confirmation of Customer's order. Our bids shall be binding only if a validity period is defined in them.
- 2.2. Amendments and additions to the contract as well as any statements by our employees that influence the contract's contents or its terms require our written confirmation for becoming valid unless the respective employees are listed as our representatives in the company register or were expressly authorised to represent us vis-à-vis Customer.
- 2.3. Information in leaflets catalogues or general technical documents shall be binding only if the contract documents contain express references to this information.

3. Supply of material

In case the parties agreed that Customer provides material or devices or tools for producing the ordered goods, these are to be supplied free of charge and any unused or unprocessed material, devices and tools are to be picked up from our factory free of charge after completion of production.

4. Prices, terms of payment, setting off and rights of retention

- 4.1. Unless any contrary stipulation is provided, the agreed prices are plus costs for packaging and shipping as well as the applicable legal turnover tax. This tax will be shown separately in the invoice.
- 4.2. Payments are to be made without deduction by transfer to one of our business accounts. Any deduction of discounts requires a respective written agreement.
- 4.3. Unless any contrary conditions were agreed, Customer shall make an advance payment of 20 % of the agreed total price not later than seven days after receipt of the invoice, and the remaining amount shall be paid not later than 30 days after receipt of the invoice and delivery or acceptance.
- 4.4. Customer is entitled to offset or retain amounts only if Customer's counter-claims were recognized by declaratory judgement or are undisputed or if these counter-claims are based on the same contractual relationship. We are entitled to prevent execution of a right to retention by providing securities - also in the form of guarantees.

5. Place of delivery, deliveries, time for performance, delay, packaging

- 5.1. Unless any contrary agreements were made, we will supply the goods to be delivered "ex works" (EXW, Incoterms 2010), however, without packaging for shipping.
- 5.2. Delivery within an agreed time for performance requires the timely implementation of all contributory actions by Customer, in particular receipt of all documents, necessary approvals and releases to be provided by Customer. In case these conditions are not fulfilled in time, the time for performance shall be extended accordingly. Our legal rights to retention shall not be affected.
- 5.3. 5.2 applies also for delays of performance due to force majeure or other circumstances outside our scope of influence (e.g. war, terror, riot), strike or a lock-out ordered by the employer's representatives in our factory or a factory directly working for us, or in case of delayed deliveries by our suppliers if we have concluded a congruent contract and neither us nor the supplier are at fault, or if we are not obliged to procure supplies in the respective case. We shall notify Customer promptly of such issues and include information on the probable new time for performance. In case the delivery cannot be executed within the new time for performance for the reasons given in sentence 1, we are entitled to withdraw from the contract entirely or partially. We shall promptly return any consideration already provided by Customer. The legal rights of both contracting parties, in particular if an obligation to perform the contract is excluded (e.g. because it is impossible or unreasonable to perform or because of remediation) shall not be affected. However, Customer shall not be entitled to withdraw from the contract for noncompliance with times for performance in case we are not responsible for the delay.
- 5.4. As provided by law Customer shall be entitled to withdraw from the contract if we are responsible for the delay of performance. Customer is obliged to declare within a reasonable period upon our request if they withdraw from the contract because of delayed performance and/or claim compensation instead of performance or if they still demand performance.
- 5.5. In case shipping or pickup are delayed upon Customer's request by more than one month after notification of readiness for shipping or readiness for pickup, in case Customer is in default of acceptance or in case performance is delayed for other reasons for which Customer is responsible, Customer shall pay lump sum damages and expenses (including additional expenses like storage costs, e.g.) of 0.5 % of the price agreed for the delayed performance for each month or part of month from the date of delivery, or in case no date of delivery was agreed from the notification of readiness for shipping or picking up. The parties' right to provide evidence for greater or smaller damage shall not be affected.
- 5.6. Packaging and loading material to the extent we owe it shall be invoiced fairly in accordance with the respective cost scheme and we need not take them back unless a contrary agreement has been made.

6. Transition of risk, takeover, shipping

- 6.1. Liabilities and the risk of accidental loss and accidental deterioration are transferred to Customer upon delivery at the latest. In case delivery is made to another place than ex works, the risk of accidental loss and deterioration as well as the risk of delay are transferred already upon delivery to the shipper, the

carrier or the person or institution determined for executing the shipping. In case of delivery with assembly or acceptance required by law or agreed, the date of acceptance is decisive. Delay of receipt by Customer shall be equal to delay of handover or acceptance.

- 6.2. In case shipping is delayed for reasons that are outside our sphere of responsibility, the risk shall be transferred to Customer already upon receipt of our notification of readiness for shipping by Customer.
 - 6.3. Determining the mode of shipping shall be within our sole discretion. We shall not be obliged to choose the cheapest and fastest way of shipping or insure the shipment.
 - 6.4. Upon request by Customer we shall insure the shipment at Customer's expense.
 - 6.5. Customer shall not be entitled to refuse receipt of shipments due to immaterial defects.
- ### 7. Reservation of title
- 7.1. Until the purchase price owed has been paid we shall reserve the title in the goods or services to be delivered ("reserved commodities" below).
 - 7.2. Customer shall not be entitled to pledge or transfer the commodities to be delivered by way of security before the full purchase price has been paid. Customer shall notify us immediately of seizure by other creditors, attachment or other dispositions by third parties and provide upon our request the information we need for asserting our rights vis-à-vis Customer's client and hand over the necessary documents.
 - 7.3. In accordance with the terms provided below Customer shall be entitled until revoked to resell and/or process the reserved commodities within the framework of their ordinary business activities.
 - 7.3.1. The reservation of title shall extend to the full value of the products resulting from processing, mixing or combining the reserved commodities and we shall be considered to be the manufacturer. Processing shall be done for us. Customer shall store the resulting new objects for us with the care of a prudent business man and keep them separate and marked as our property. The new objects shall be considered to be reserved commodities. In case the title of third parties continues to exist when our products are mixed or combined with their products, we shall acquire a share of ownership in the mixed or combined goods that is equivalent to our share in the invoice value of the mixed or combined goods. In all other regards the same shall apply for the resulting products as for the reserved commodities.
 - 7.3.2. In order to be sure Customer already now assigns to us in full or to the extent of our share of ownership according to 7.3.1 the claims vis-à-vis third parties resulting from resale of the reserved commodities or of the products made with them. We accept the assignment.
 - 7.3.3. In addition to us Customer remains entitled to collect claims resulting from resale. However, we shall be entitled to collect claims only for good cause and after asserting the rights according to 7.4. As good cause shall be considered in particular if Customer is in arrears or in case Customer is lacking ability to perform in the meaning of Art. 321 BGB [German Civil Code]. As soon as we are entitled to collect the claims Customer is obliged to notify us of the assigned claims and their debtors, to provide all information required to execute the collection and to notify the debtors (third parties) of the assignment. In addition to the above we are entitled in that case to revoke Customer's right to resell and process the reserved commodities.
 - 7.4. In case Customer is in arrears, we are entitled to withdraw and take back the reserved commodities in accordance with the applicable legal regulations after expiry of a reasonable time for Customer unless this is unnecessary in accordance with the legal or contractual regulations. Customer is obliged to return the commodities. Subject to any contrary declaration the requirement to return the commodities shall not be connected with a withdrawal from the contract.
- ### 8. Assembly services
- 8.1. We owe assembly services only if this has been expressly agreed.
 - 8.2. We are entitled to have the assembly services provided by subcontractors. Customer may contradict the employment of a subcontractor if the employment of that subcontractor would be unreasonable and the subcontractor is not an affiliated company of ours in the meaning of Art. 15 AktG [Aktiengesetz (German Stock Corporation Act)].
- ### 9. Rights in documents and intermediate products
- 9.1. Property and copyright in images, drawings, calculations, samples and other documents handed over by us to Customer before or after executing the contract shall be transferred to Customer only upon express agreement. Customer undertakes to treat these documents as confidential without limitation and not to make them accessible to third parties without our written consent. Customer's clients shall not be third parties in the meaning of this paragraph. Any documents handed over by us before a contract was concluded shall be promptly returned to us in case no contract is concluded.
 - 9.2. 9.1 shall apply for samples, models, moulds, tools and special devices which we produce to prepare for concluding the contract or within the framework of performing the contract.
- ### 10. Industrial property rights
- 10.1. In case we owe manufacturing or production of objects on the basis of drawings, samples or other information provided by Customer, Customer shall ensure that third party industrial property rights or copyrights ("industrial property rights" below) are not being violated.
 - 10.2. In case third parties raise claims against us for violation of such industrial property rights, Customer shall exempt us from these claims upon first request and compensate us for any damages and expenses arising from such claim.
- ### 11. Defect Liabilities
- 11.1. In case Customer is entitled to request remediation due to defects, we shall either carry out the remediation of the concerned services free of charge or supply new products/services. The right to refuse remediation on the basis of legal preconditions shall not be affected.
 - 11.2. Customer is obliged to notify us promptly of any defects. In case the contract is a commercial transaction, the examination and defect notification obligations in accordance with Art. 377 HGB (German Commercial Code) apply also for other contracts than purchase contracts and contracts for work and materials. Customer is obliged to examine goods determined for installation or other forms of processing at the latest immediately before processing them unless we owe the installation or processing.



- 11.3. Claims based on defects do not exist if the good's suitability for the purpose assumed in the contract or for usual purpose is only immaterially impaired.
- 11.4. Customer is obliged to take all measures possible and reasonable to keep the expense for remediation as small as possible.
- 11.5. Claims based on defects become statute-barred 12 months from the beginning of the legal limitation period. This period shall not apply for claims based on defects according to Art. 438(1)(2) or 634a(1)(2) BGB (for building materials or construction planning/supervisory services), for recourse within the supply chain of a consumer goods purchase (Art. 478 BGB), for intent, fraudulent concealment of the defect, and for breach of a quality warranty. The legal regulations regarding suspension of expiration (in particular from Art. 445b(2) BGB), suspension and recommencement of the limitation period shall not be affected.
- 11.6. Customer's claims based on defects exist only in the cases described in 12.2. This regulation does not lead to a change of the burden of proof to the disadvantage of Customer.
- 11.7. The stipulations in 11.1 up to 11.5 shall not apply for claims of Customer against us from Art. 445a BGB (recourse of vendor) if the last contract in the supply chain is a consumer goods purchase contract.
- 11.8. In all other respects apply the legal regulations for liability for defects.
- 12. Liability and damages**
 - 12.1. Claims for damages and compensation for expenses by Customer shall be excluded irrespective of their legal grounds, in particular this applies for claims based on violation of primary and collateral duties related to the obligation and claims based on tortious acts.
 - 12.2. This exclusion shall not apply for our liability
 - in case of intent or negligence,
 - for loss of life, personal injury or injury of health,
 - in accordance with the product liability act, or
 - for the violation of duties whose fulfilment is the basis for the proper execution of the contract and on whose fulfilment Customer can rely on the basis of the purpose and content of the contract (essentials of the contract). Our liability in these case shall be limited to the typical, foreseeable damage, however, unless we are liable at the same time for another one of the above mentioned reasons.
 - 12.3. The above stipulation does not lead to a change of the burden of proof to the disadvantage of Customer.
- 13. Assignment and pledging**

Any assignment or legal pledging of Customer's claims against us shall require our consent.
- 14. Place of performance, legal venue, applicable law**
 - 14.1. Place of performance for delivery and payment is Plauen.
 - 14.2. Legal venue for all disputes arising from and in connection with the contract relationship is Plauen. However, we will be entitled to take legal action also at the general legal venue of Customer. This agreement on the legal venue shall not apply for default actions or if there are legal reasons for establishing an exclusive legal venue.
 - 14.3. The contractual relationship is subject to the law of the Federal Republic of Germany exclusively, excluding the UN Sales Convention (United Nations Convention on Contracts for the International Sale of Goods (CISG)).
- 15. Severability**

In case any of the stipulations in these terms of delivery or of the other parts of the contract is ineffective or in case of any gaps in the contract created by the addition of these terms of delivery, this shall not affect the validity of the remaining contractual stipulations. To the extent to which the ineffectiveness of the contractual stipulations is not based on legal regulations that aim at protecting a contracting party, the ineffective stipulation shall be replaced by an effective stipulation and any gap shall be filled by a stipulation in such a way that the intentions of the contracting parties and the meaning of the contract are fulfilled as far as possible.