

**EuropTec Holding AG**  
**EuropTec AG (CH-Oftringen), EuropTec GmbH (D-Goslar)**  
**called "Supplier"**

**Standard Terms and Conditions of Sale and Supply**

1. **General Terms**
- 1.1 The Standard Terms of Sale and Supply of the supplier apply to all sales, supplies and services made to the customer. By placing an order or taking receipt of the supplier's goods or services the customer shall be deemed to have accepted the terms of sale and supply set out herein. Any variation in the terms of contract shall only apply if they have first been agreed in writing. The customer waives the right to assert his own standard business terms and conditions.
- 1.2 Quotations made by the supplier shall as a principle be deemed subject to change without notice. A contract between the supplier and the customer shall not be deemed binding until the supplier has sent written confirmation to the customer that the latter's order has been accepted (the order acknowledgement).
2. **Scope of supplies and services**

The supplies and services to be made are specified in full in the order acknowledgement. Services not included shall require further written agreement. Supplies and services, in particular with regard to features, size and weight, may vary slightly from those specified in the order acknowledgement. Such variations shall be deemed in conformity with the contract so long as they do not adversely affect the essential qualities of the supplies and services. **Due to non foreseeable scrap rates deliveries may vary in quantity +/- 10 %.**
3. **Plans, technical documents, samples and prototypes**
- 3.1 Unless otherwise agreed in writing, the content of promotional material and catalogues shall not be deemed binding. Data which appears in technical documents shall only be deemed binding if the customer has been assured of this in writing.
- 3.2 The supplier reserves all rights over all plans he has developed, as well as technical documents, samples and prototypes. The customer shall recognise these rights and shall not allow a third party to gain access to such plans, technical documents, samples and prototypes, either in whole or in part, without the supplier's prior written consent. Further, such documents may not be used for purposes other than those intended by the supplier. The use of the supplier's plans, technical documents, samples and prototypes for purposes of encouraging competitive pricing from third parties is prohibited.
4. **Prices**

The prices quoted on the order acknowledgement shall be deemed binding. In the event of prices not being entered on the order acknowledgement, the supplier's current price list shall apply. Unless otherwise agreed, all prices shall be deemed to be in EURO, net EXW, excluding packing, VAT and any levies. All costs, taxes, levies, fees, customs' duties and the like shall be borne by the customer.
5. **Terms of payment**
- 5.1 Payments shall be made at the supplier's domicile within 30 days of the date of invoice. Payments shall be net and without deduction for cash discount, costs, taxes, levies, fees, customs' duties and the like.
- 5.2 Once the payment deadline has expired, a default penalty shall apply automatically, i.e. without a further reminder. From this date the customer shall be charged default interest at a rate of 10% p.a.. In the event of further losses, and once a reasonable extension of the payment period has passed, the supplier expressly reserves the right to claim damages and to withdraw from the contract in question. Further, the supplier expressly reserves the right to withhold supplies and services to the customer agreed under any other contracts and to cancel such further contracts.
- 5.3 The customer may not offset any monies due to the supplier against amounts owed by the supplier without the supplier's written consent.
6. **Reservation of title and right of sale**

The supplier shall remain the owner of all supplies until such time as it has received full payment for them in accordance with the contract. By entering into the contract the customer authorises the supplier, at the customer's expense, to enter the reservation of title in the public register and to complete all the pertaining formalities.

Throughout the period of the reservation of title the customer shall, at his own expense, keep the goods supplied in good condition and insure them, with the supplier as beneficiary, against theft, breakage, fire, water and other risks. Further, the customer shall take any steps necessary to ensure that the supplier's title to property is neither prejudiced nor annulled.

In the event of commingling of goods, the supplier shall become a co-owner, in proportion to the value of the various components. Should the customer not honour his contractual obligations to take delivery and/or pay even after an extension of 30 days to the payment period, for as long as they are not taken in delivery and/or they remain unpaid, the supplier may sell the goods ordered by the customer freely and without hindrance to a third party, regardless of any rights which the customer might otherwise enjoy (such as patent rights, or the legal protection for company names, trademarks, samples, models and patterns, and copyright).
7. **Delivery period**
- 7.1 The delivery period shall commence at the time a contract is signed and, where appropriate, when all payments due at the time of order or agreed securities have been effected.
- 7.2 An extension to the time allowed for delivery may be granted dependent on the following circumstances:
  - a) if the supplier does not receive the details necessary for the performance of the contract in good time, or if the customer subsequently changes these;
  - b) if hindrances occur which are beyond the supplier's control despite taking due care, irrespective of whether the cause rests with itself, the customer or a third party. Such hindrances include, for example, epidemics, mobilisation, war, revolts, serious operational breakdown, accidents, labour conflicts, the late or incorrect delivery of essential raw materials, semi-finished or finished products, spoilage of important items of work, the imposition or failure to carry out measures by state authorities, natural disasters and acts of God.
  - c) if work to be carried out by the customer or a third party is overdue or such parties are in arrears with the performance of their contractual obligations, in particular if the customer fails to observe the terms of payment.
- 7.3 In the event of delivery times not being met, the customer shall not be entitled to claim for damages. However, he shall be entitled to withdraw from the contract if it is not honoured within an extension to the delivery period of at least 90 days.
- 7.4 The customer shall not be entitled to any rights or claims resulting from late deliveries or delayed services other than those expressly stated in this clause 7. Further, the supplier's exclusion from liability as defined in clause 12 shall apply.
8. **Tools and moulds**
- 8.1 Tools and moulds, including accessories, shall remain the property of the supplier, even where the customer has contributed to the costs of their production.
- 8.2 The supplier shall bear the costs of storage and maintenance of the tools and moulds for the purposes of further orders for a period of 3 years following the last delivery. The customer may request that the supplier stores and maintains the tools and moulds for a maximum of a further 2 years at the customer's expense. Tools and moulds not used during the 3 year or optional 5 year period shall not be retained by the supplier.
9. **The passing of benefit and risk**
- 9.1 The benefit and risk of the supplies shall pass to the customer at the time they are dispatched from the works.
- 9.2 If the customer requests that the handing over or - where a dispatch has been agreed - the dispatch be delayed, or if a delay occurs for other reasons beyond the supplier's control, the risk for the supplies shall still pass to the customer at the point in time originally envisaged for the handing over or dispatch. From this point in time the supplies shall be stored at the customer's expense and risk.
10. **Inspection and taking delivery of supplies and services**
- 10.1 The supplier shall inspect the supplies and services before dispatch in accordance with usual practice. Should the customer require more extensive checks to be carried out, these shall be agreed separately and paid for by the customer.
- 10.2 The customer shall be obliged to inspect the supplies and services within 10 days of receipt of the goods and the provision of the services and must immediately notify the supplier in writing of any deficiencies. Failure to do so shall be deemed to be approval of the supplies and services.
- 10.3 The supplier shall be obliged to make good the defects notified to him in accordance with clause 10.2, as soon as possible and subject to the supplier's right of choice defined in clause 11.2. The customer shall be obliged to give the supplier the opportunity to do so.
- 10.4 Deficiencies of any kind in supplies or services provided by the supplier shall not entitle the customer to any rights or claims other than those expressly stipulated in clauses 10 and 11 (guarantee, liability for defects). Further, the supplier's exclusion from liability as defined in clause 12 shall apply.
11. **Guarantee, liability for defects**
- 11.1 The supplier's guarantee shall last for 12 months from the date of delivery of the goods, or the provision of services. The customer may only make claims against the guarantee if he has fulfilled his contractual obligations, and in particular, has made payments in full. The customer's right to claim against the guarantee shall terminate prematurely if the customer or a third party carries out modifications or repairs to the supplies or services, or, in the event of a defect arising, if the customer does not immediately take all appropriate measures to minimise the damage and give the supplier the opportunity to make good the damage.
- 11.2 The supplier shall undertake, at the written request of the customer, to either repair or replace as quickly as possible any parts of the goods or services supplied by it which, within the period of the guarantee, can be proven to be defective or unusable as a result of bad materials, faulty construction or poor workmanship. Alternatively the supplier may refund the cost of these parts against the purchase price/labour cost. Unless otherwise agreed in writing the customer shall bear the costs of dismantling, transport and reassembly. Replaced parts shall become the property of the supplier.
- 11.3 Excluded from the supplier's guarantee and liability are any deficiencies which cannot be shown to be the result of bad materials, faulty construction or poor workmanship but which, for example, result from natural wear and tear, incorrect storage or handling, inadequate maintenance, failure to observe operating instructions, overloading, the use of unsuitable materials, chemical or electronic interference, assembly work not carried out by the supplier, and for any other reasons beyond the supplier's control.
- 11.4 Deficiencies of any kind in supplies or services provided by the supplier shall not entitle the customer to any rights or claims other than those expressly stipulated in clause 11.2. Further, the supplier's exclusion from liability as defined in clause 12 shall apply.
12. **The supplier's exclusion from further liability**

All cases of breach of contract and the legal consequences thereof, as well as any claims by the customer against the supplier, on whatsoever legal basis they are made, shall be covered exclusively by these terms and conditions. In particular, any claims made by the customer against the supplier for damages, price reduction, termination of or withdrawal from the contract, which are not expressly mentioned here, shall be excluded. The supplier's liability shall be limited to the value of the goods and services supplied. The supplier shall not be liable for damage occurring to items entrusted to it by the customer or a third party for purposes of processing or storage. In no case whatsoever shall the customer be entitled to claim compensation for damage which has not occurred to the supplied items themselves; in particular this shall include damage resulting from lost production, use, orders, or profit, and from any other direct or indirect consequential losses.

This exclusion from liability shall not however apply to unlawful intent or gross negligence on the part of the supplier, but it shall apply to unlawful intent or gross negligence on the part of the supplier's staff. Further, this exclusion from liability shall not apply where it contravenes binding law.
13. **Intellectual property rights**

Insofar as the supplier shall supply goods and services in accordance with the customer's designs, drawings, models or samples or in accordance with other details passed to him by the customer, the customer shall undertake to guarantee that the intellectual property rights of third parties shall not be violated as a result of the manufacture and supply of these products or the performance of these services. The customer shall indemnify the supplier against all damages arising from the violation of a third party's intellectual property rights as a result of the customer's instructions.
14. **Covenant not to assign**

The customer shall not be entitled to assign his claims against the supplier to a third party without the supplier's written consent.
15. **Place of jurisdiction and law to be applied**
- 15.1 **The sole place of jurisdiction for any disputes between the parties shall be chosen by the supplier; it may be at the place of the supplier's registered office, the customer's registered office, or any other place of jurisdiction. This agreement on the place of jurisdiction shall not apply where it contravenes compulsory law.**
- 15.2 The contracts between the supplier and the customer shall be governed exclusively by Swiss and German substantive law, excluding the United Nations Agreement on the International Sale of Goods (Viennese Law on Sales) dated 11<sup>th</sup> April 1980.