

**General terms of delivery (ALB) of the Müller Group, Breidenbach
(Müller GmbH Formenbau, Müller GmbH Formtechnik, Müller Holding GmbH & Co. KG)**

1. General terms

- 1.1. The following ALB of Müller Formenbau, Am Mülhgraben 2, 35236 Breidenbach – in the following called Müller – will be applicable for all purchase, production, product delivery or service contracts with contractors in the sense of § 310 para. 1 BGB (German Civil Code) – in the following called customers – that we sell products to or for whom we realize production, product delivery or services.
- 1.2. We conclude the afore-mentioned contracts exclusively on the basis of our ALB. They are and will be effective for all present and future business relationships.
- 1.3. Even in case of knowing about them, deviating, contrary and supplementing general terms of customers will not become part of the contract until their effectiveness has been expressly accepted in writing. This is especially true for logistics and quality requirements.

2. Exclusion of cession

Only upon our previously granted consent in writing, the customer can cede rights resulting from this contract, especially claims for payment, to third parties; § 4 para. 5 remains unaffected. Any cession without our consent is ineffective.

3. Offer, documents and contract conclusion

- 3.1. Our offers are subject to alteration. All agreements will not become binding before we have confirmed them in writing. Exclusively the content of our confirmation is essential for the contractual relationship.
- 3.2. Quotations, drawings and other documents and data in the frame of planning works remain our property even if we dispatch them. We reserve all copyrights for them. Without our written approval, these documents may neither be copied nor made accessible to third parties. This is also true for electronic saving devices or other types of data and information carriers.
- 3.3. If we are not placed an order, we are entitled to request the customer to give back to us documents and data furnished to him unless the customer compensates them in a special form. Upon this compensation, the customer acquires the unexclusive, temporally unlimited, non-transferable usufruct of samples, sketches, drafts and similar things that are subject to copyright protection.
- 3.4. The documents pertaining to our offers and/or order acknowledgements, especially graphs, as well as performance information and measurements are decisive in the frame of customary deviations unless otherwise agreed expressly and separately.
- 3.5. We can accept orderings and orders in an unstructured form within 15 labour days. If we do not do so, this means the rejection of an order.

4. Delivery, period of delivery, partial delivery, insurance and arrears

- 4.1. Delivery dates are binding unless agreed differently. If we have expressly agreed a delivery date with the customer, meeting this delivery commitment through us takes for granted that the customer meets his obligation in time and properly. We reserve the objection of an unfulfilled contract.
- 4.2. The period of delivery starts upon the dispatch of our order acknowledgement, however, not before all approvals and documents necessary for the fulfillment of the order have been submitted. The period of delivery is considered to be kept when goods ordered have been dispatched in time.
- 4.3. The customer may withdraw from the contract when it is impossible to meet the contract or when we fall into arrears under the condition that we will not be able to deliver the goods within an additional and adequate period fixed by the customer. The withdrawal requires the written form and must be declared immediately after the reason for the withdrawal has occurred. The right of withdrawal expires upon the complete fulfillment.
- 4.4. The customer's right for damages in case of delayed delivery or non-completion is excluded unless we violate essential contract clauses deliberately and negligently. We do not recognize penalties for breach of contract.
- 4.5. We dispatch our goods to customers within Germany – with the exception of the German islands – according to our choice and at our expense through the dispatch service industry, a haulage contractor or through couriers unless the customer cares for collection ex works.
- 4.6. Signing an insurance contract for the dispatch through us is a voluntary measure unless agreed differently and expressly. When the customer picks the goods up, then he is to decide about a transport insurance. Packaging material will not be taken back unless we are obliged to do so by law.
- 4.7. Even without an expressive agreement, partial deliveries can be effected. The additional costs arising for the dispatch will be at the expense of Müller, unless agreed differently.
- 4.8. At the latest, the risk will go over to the customer if the dispatch service provider, the haulage company or a courier hand the goods over to the customer or, in case the customer is not present, try to make the first delivery attempt. If the customer orders the transport of goods or realizes the transport on his own, the risk goes over to the customer upon the handing over or from the person entrusted by the customer to the customer. This is also true in case of partial deliveries or in case we have accepted further obligations like e.g. the dispatch costs or the transport. As far as goods must be accepted, this is essential and decisive for the risk going over to somebody. An acceptance must take place exactly at the acceptance date, however, we can be helpful and accept the willingness of acceptance after our communication. The customer cannot refuse the acceptance if products are not essentially defective. If a customer does not collect goods within two weeks following our formless communication of our willingness to dispatch the goods, we are entitled to dispatch the goods to the customer's company base or his next registered office. The customer has to bear the adequate costs arising for this dispatch.
- 4.9. If the customer falls in arrears with his acceptance or violates further obligations involved, we will be entitled to claim for damages regarding the damage arising for us, including potential additional costs. Moreover, we will be entitled to withdraw from the contract and claim for damages because of non-fulfillment if the customer is still in arrears with his acceptance. Stipulating a deadline is not necessary if the customer finally refuses to accept the goods.

5. Prices

- 5.1. Agreed prices will be effective.
- 5.2. In case of contracts with an agreed delivery time exceeding four months, we reserve the right to modify the prices according to the costs arising after that point of time, especially on the basis of pay agreements or changed material prices of our presuppliers. To the same extent and in the same way, we will immediately decrease the price in case of falling costs. Cost increases and cost decreases will thus be balanced. We will inform our customer about the respective price changes at least four weeks in advance. The customer is then entitled to terminate or withdraw from the contract at the moment these price changes become effective.

- 5.3. For lack of a special agreement and subject to the regulations of 3 para. 5, the prices are ex works. The correspondingly legal sales tax will be added to the prices.
- 5.4. The agreed fee for samples, sketches, drafts and further project services being required expressly by the customer must also be paid in case the customer does not place the order.
- 6. Payment, arrears, offset and cession, insolvency insurance**
- 6.1. Unless otherwise agreed, payment of the purchase price has to be effected within two weeks as of the invoice date without any discount through bank transfer into our accounts. Discount will only be granted upon special agreement and in individual cases.
- 6.2. If the customer is in arrears, he is to pay annual interests on arrears amounting to 9% over the effective basic interest rate in the sense of § 247 German Civil Code, at least, however, amounting to 10% per annum.
- 6.3. Unless indisputable or legally binding, offsets against our claims or corresponding reservation rights on the part of the customer are excluded. Offsets against us are ineffective, unless these ALB or individual agreements allow them expressly. We do not accept offset clauses of groups of companies.
- 6.4. In case we get to know about an unfavourable financial situation or a deterioration of the customer's property after the contract conclusion, we will be entitled - without considering former agreements – to claim for the immediate complete payment of the purchase price, an adequate guarantee or, in case the customer does not meet our request, for damages or for the withdrawal from the contract after prior reminder or an additional deadline. This is especially true for the case that we get to know about the reason for an insolvency.
- 6.5. Regardless of the invoice, a possibly granted guarantee on a loan has to be returned immediately after delivery and termination of the commercial examination.
- 7. Provision**
- 7.1. As far as the customer provides us with models, tools, manufacturing equipment or parts for his goods ordered for free, they have to be sent to us without any charge at least two weeks prior to the agreed delivery date. If we do not need these provisions any more we can request from the customer to pick them up at any point of time. If the customer does not meet this request within three months, we are entitled to send them back or have them deposited at his expense. The customer has to bear the costs for maintenance, modification and replacement.
- 7.2. In case we have to buy objects to be provided by the customer to meet our contractual obligation resulting from the order accepted, the General Terms of Purchase will become effective for this purchase. The claim for this purchase can be set off against our claim of purchase.
- 7.3. The customer will be liable in any case for technically correct designs and an execution safeguarding the manufacturing purpose of the provisions made available or bought by him for free. However, we are entitled to technically necessary modifications. Without any special agreement, we are not obliged to verify the compliance of provisions with drawings and samples enclosed.
- 7.4. All provisions made by the customer will be treated by us with the same care that we would employ with regard to our personal matters. On the customer's request, we are obliged to insure his provisions. The customer's claims for replacement in case of resultant damage are excluded.
- 7.5. In spite of the legal reason, if the customer withdraws from the contract in case of para. 2 or if the contract will not be signed for further reasons, we will also be entitled to withdraw from the purchase contract for provisions. The right of withdrawal expires three years after the delivery of a provision.
- 8. Reservation of proprietary rights**
- 8.1. We reserve proprietary rights concerning the object to be purchased until it is entirely free of any claims resulting from our business relationship with the customer.
- 8.2. In case a customer behaves in a form contrary to the terms of the contract, especially if it is about payment in arrear, we will be entitled to request the object purchased. If we take the object purchased back, this only constitutes a withdrawal from the contract if we inform the customer about it in the written form. After taking the object purchased back, we will be entitled to make use of it; the proceeds of this use have to be set off against the customer's liabilities – deducting adequate costs for the use.
- 8.3. The customer is responsible for treating the object purchased carefully.
- 8.4. We will remain the owner of the goods regardless of the level or form of treatment that they show. Acc. to § 950 German Civil Code, the acquisition of property on the part of the customer is excluded. The customer acquires potential property for us and keeps the goods safe for us. If our goods get mixed or combined with the customer's movables, the customer already now passes on to us proprietary or co-proprietary rights regarding the mixed or combined objects and he keeps them safe for us.
- 8.5. Apart from that, contractual claims, especially claims for damages, remain unaffected.
- 8.6. In case of seizures or other interventions by third parties, the customer is to inform us immediately so that we can institute proceedings acc. to § 771 Code of Civil Procedure. As far as the third party is not in a condition to compensate our legal or extralegal costs for proceedings acc. to § 771 Code of Civil Procedure, the customer is liable for the costs that have arisen for us because of the proceedings.
- 8.7. The customer is entitled to sell the object purchased in the course of proper business practices. He already now cedes to us any claim amounting to the total invoice amount (incl. legal sales tax) of our claim resulting from the sale of a delivery or a comparable legal relationship against his buyers or third parties. This is true regardless of the fact if our goods have been processed, mixed or combined with movables before. We already accept this cession at this point of time. Even after the cession, the customer remains revocably entitled to collect this claim. Our entitlement to collect the claim ourselves remains unaffected. However, we commit ourselves to not collecting the claim ourselves as far as the customer meets his payment obligations resulting from the proceeds received, does not fall in arrear with payments and in particular does not apply for the opening of insolvency proceedings. However, if this happens, we can ask the customer to disclose towards us the claims ceded and the names of their debtors, that he gives all information necessary for the collection handing out the documents related and that he informs the debtors about the cession.
- 8.8. We commit ourselves to hand out the securities that we are entitled to on the customer's request unless the value realizable of our securities exceeds the value of the claims to be secured by more than 20%. The choice of the securities to be granted is up to us.

9. Assurance of characteristics and liability for defects

- 9.1. The assurance of certain characteristics is only granted upon expressive inclusion of the characteristics into the contract. All graphs and texts referring to our goods offered in stores, catalogues and on websites are meant to be technical descriptions and graphs based exclusively on the execution of suppliers and manufacturers. And therefore they do not represent assured characteristics regarding individual products. We reserve the right to improve the quality of our products and to optimize them. A reference to DIN standards includes the more detailed description of goods, however, no assurance of characteristics. The delivery of samples or test pieces is not binding and is only meant to be an assurance of characteristics if this has been agreed expressly in writing.
- 9.2. We have full trust in the quality of our products and our quality security. Quality checks through the customer or his representatives in our works require our prior written consent. We do not bear any costs arising for the customer in this context.
- 9.3. If the business transaction is a commercial purchase, the claims for defects on the part of the customer presuppose that he has adequately met his obligations regarding examination and complaint acc. to § 377 Commercial Code. The object purchased must especially be checked immediately regarding defects and damage through transport. Complaints have to be made without delay. The legal guarantee claims for defects for business transactions other than commercial purchases remain unaffected.
- 9.4. As far as an object purchased is defective, the customer is entitled first only to have the defect repaired or to request the delivery of a new object that is free of defects. In case of a repair of the defect or a replacement delivery, we are obliged to bear the costs necessary for the purpose of another performance, especially transport, time, wages and material costs, unless they rise, because the object purchased was taken to a place other than the place of performance.
- 9.5. In case the second performance is not successful or in case we reject it because of unproportionally high costs, the customer is entitled to select between a withdrawal from the purchase contract or the works delivery contract for the respective product or a decrease of the purchase price. Our rights regarding the impossibility of a performance remain unaffected. Frame contracts remain effective unless terminated separately.
- 9.6. In case of defective objects we are only liable as far as a damage does not result from deliberate and negligent action on the part of our representatives or accomplices. As long as we are not to be blamed for a deliberate violation of the contract, the liability for damages is limited to the predictable damage that is likely to happen.
- 9.7. In case of a culpable violation of the essential contractual obligation we will be liable in compliance with the legal instructions, with the liability for damages being restricted to the predictable damage that is typically likely to happen.
- 9.8. Moreover, as far as the customer is entitled to damages instead of the performance due to a gross negligent violation of an obligation, our liability for damages is limited to the predictable damage that is typically likely to happen.
- 9.9. The liability due to a culpable danger to life or a physical injury or a health risk remains unaffected; this is also true for the compelling liability in compliance with the law on product liability.
- 9.10. Unless there is a deviating regulation for the afore-mentioned clauses, the liability is excluded.
- 9.11. The limitation period for claims for defective goods through the customer amounts to 12 months as of delivery or – if necessary – as of acceptance, depending on what is realized at the later point of time.

10. Immaterial rights

- 10.1. We will not check the possible violation of immaterial legally protected rights of third parties, in particular patent, brand, taste samples or copyrights as well as other commercial protective rights – nationally and internationally – for goods manufactured in compliance with the customer's specifications. It is the customer's responsibility to safeguard that goods manufactured in compliance with his specifications do not affect the rights of third parties. The customer guarantees this upon submission of his order.
- 10.2. We guarantee for our products that commercial protective rights of third parties in Germany will not be violated. We do not assume any liability for the violation of immaterial legally protected rights in the remaining EU and beyond the EU.

11. Joint liability

- 11.1. With no consideration for the legal nature of the respective claim, a further reaching liability for damages than specified in the afore-mentioned clauses is excluded. This is especially true for claims for damages resulting from fault upon contract conclusion, because of other breaches of duty or because of criminal claims for damages in case of damage to property acc. to § 823 German Civil Code.
- 11.2. The limitation of the obligation to pay damages acc. to para. 1 is also true in case the customer – instead of claiming damages instead of the performance – requests damages for useless expenses.
- 11.3. As far as our liability for damages is excluded or limited, this is also true with regard to the personal liability for damages of our organs, employees, staff members, representatives as well as our accomplices.

12. Final clauses

- 12.1. Court of jurisdiction is Breidenbach / Germany, unless the supplier is not a businessman. However, we are entitled to also take proceedings against the supplier at the court of his place of business.
- 12.2. Unless the order acknowledgement specifies something different, the place where the contract is to be fulfilled is Breidenbach/Germany.
- 12.3. Exclusively the laws of the Federal Republic of Germany will be applicable. The effectiveness of the EU- purchase law is excluded.
- 12.4. In case individual clauses of these ALB should be or become ineffective, this will not affect the effectiveness of the remaining clauses. The parties commit themselves to agree on such clauses instead of the ineffective ones that in an economic sense are very close to those ineffective clauses.
- 12.5. Deviations from contractual regulations and sub-agreements require the written form. This is also true for the renunciation of the written form-requirement.
- 12.6. The German version is exclusively decisive when interpreting these ALB.
- 12.7. The customer commits himself to respectively retrieve the latest ALB from the Müller homepage at <http://www.muellerhome.com> on 1st January, 1st April, 1st July and 1st October and to inform himself about changes and modifications. In case the customer does not have access to the internet, we will dispatch a written version of the ALB for free.

Breidenbach, den 24. Juli 2020

as at 1st August 2020