

General Terms and Conditions

Rädlinger primus line GmbH

I. General

1. Our deliveries, services and quotations shall be carried out expressly on the basis of the following conditions. These shall also apply to all future business relations even if agreement to such is not expressly repeated. These conditions shall be deemed to have been accepted by the Buyer at the latest upon taking delivery of the goods or services. Application of the terms of the Buyer is hereby contradicted. Any deviation from these conditions shall only be effective if such are confirmed by us in writing.
2. We point out that any data concerning the Buyer and business transacted with him shall be processed by us within the meaning of the German Data Protection Act.

II. Quotations and conclusion of contract

1. Unless otherwise expressly stated, our quotations shall be without obligation. Samples and specimens shall be for guidance only and be without any commitment. Sales contracts and agreements shall only become binding on the basis of our written order confirmation or through our delivery, with our invoice in the latter case substituting the order confirmation.
2. In placing orders, the often-used expression „as previously supplied „shall in all cases refer to design only and not to price. The only acceptable product description shall be the PRIMUS LINE article name. Additional references to customer article names shall not be binding.
3. Any technical advice, verbal or written, provided by us in respect of application shall not be binding – also in relation to any property rights of third parties – and shall not release the Buyer from examining our products with regard to their suitability for the processes and purposes for which he intends to use them.
4. We expressly reserve the right to withdraw from the delivery if there are obstacles due to national or international regulations of foreign trade law as well as embargoes and / or other sanctions. In this case the buyer cannot make any claim for damages.

III. Prices

1. Unless otherwise agreed, our prices shall be understood to mean ex works or warehouse and shall not include packaging, carriage or value added tax at the rate applicable on the day of delivery.
2. Unless otherwise expressly stated, the prices shall be given without obligation and based on current cost factors. Should there be any changes in these cost factors before the date of delivery, e.g., due to price increases for raw materials or wage increases, we shall reserve the right to adjust our prices accordingly.
3. Orders for which no prices have been agreed shall be invoiced at the prices that are valid on the day of delivery.
4. Unless otherwise expressly agreed, the selling prices as well as all quotations and calculations shall be in EUR.

IV. Terms of payment

1. Unless different terms of payment have been agreed upon by separate contract, our services shall be remunerated in the form of cash in advance. Prices are quoted „EXW Incoterms (2010) “. Unless otherwise agreed, any insurance, transport

and packaging costs and any other taxes and levies will be payable in addition. The place of performance in respect of payment shall be Cham, Germany.

2. The Buyer only has the right to offset and – if the Buyer has been granted a payment target after delivery – to exercise a right of retention if (a) its counterclaim is either undisputed, has been ruled final and absolute by a court of law or (b) where such claim has been asserted through a court the claim is ready for a decision or (c) where such claim is synallagmatic to the principal claim.
3. Default shall occur without prior request for payment if the period allowed for payment is exceeded. Default shall also occur if the Buyer does not pay after having received a reminder following the due date of the purchase price. During default, interest shall accrue on the purchase price at 1.5 % per month. We are also entitled to the statutory default amount pursuant to § 288 (5) sentence 1 German Civil Code. We reserve the right to assert claims for any further default losses. In business with merchants this definitely has no effect on our statutory entitlement to commercial interest (§§ 352, 353 German Commercial Code) from the due date.
4. If the Buyer is in default of payment, all outstanding accounts and the sums of all bills shall become due for payment immediately, irrespective of any payment target. If the terms of payment are not observed or in the event of circumstances occurring that are capable of impairing the credit worthiness of the Buyer, we shall be entitled to render immediately payable our entire receivables. If advance payments are not made or security not provided after setting an appropriate period, we shall be entitled to withdraw from the contract in respect of any services or deliveries still outstanding, with the result that all claims shall expire on the part of Buyer in relation to those shipments not yet effected.

V. Retention of title and other securities

1. We shall retain the right of title to any goods until such time as full payment is received for all accounts receivable from the Buyer, including any receivables which may arise in future from the business relationship.
2. Goods under retention of title and supplied by us shall always be processed and converted to the exclusion of any acquisition of title under Section 950 of the German Civil Code on our behalf but without incurring any commitment on our part. The goods processed shall serve as our security only in the amount of the value of the goods under retention of title. In the event of any processing by the Buyer with goods not belonging to us, we shall have the right of co-title to the new product in the ratio of the value of goods supplied by us (invoiced value) with the result that this new product is then subject to retention of title within the meaning of these conditions.
3. The Buyer shall be entitled to process and to sell the goods under retention of title in the orderly course of business.
4. The Buyer shall hereby assign to us by way of security all receivables due to him, including balances receivable from current account agreements, any treatment, processing or incorporation of those goods supplied by us; this shall apply equally to claims of the Buyer arising from any other cause in law (insurance, tort etc.) in respect of the goods under retention of title. Assignment shall in each case be restricted to the value,

as indicated in our invoices, of the goods delivered. Should the Buyer's customer have effectively excluded the assignment of receivables, the Buyer and ourselves shall, within our internal relationship, act as if the afore-mentioned receivables of any type assigned to us in advance have been effectively assigned to us. We shall be authorized by the Buyer to assert the amount receivable in his name for our account as soon as the Buyer is no longer entitled, in accordance with the arrangement set out below, to collect the amount receivable in his own name.

5. We irrevocably authorize the Buyer to collect the receivables assigned to us for own account and in his name. As soon as the Buyer fails to meet any obligation to us or any circumstance specified in Item IV.4 arises, the Buyer shall, at our request, disclose the assignment and furnish us with the necessary information and documents. We shall also be entitled to notify the Buyer's debtors of the assignment directly and to demand payment from them.
6. Once delivered, the goods must neither be pledged nor assigned by way of security without our consent. In the event of third parties' acts aimed at obtaining the goods under retention of title, the Buyer shall draw attention to our title, inform us without delay and provide us with any assistance that is necessary to safeguard our rights.
7. In the event of the Buyer acting in breach of contract – in particular default in payment – we shall be entitled to assert our retention of title and to demand the immediate surrender of the goods under retention of title and, by ourselves or through agents, obtain their direct possession or, if necessary, to demand assignment of the Buyer's claims for the return of the goods from third parties. Asserting the retention of title shall not involve withdrawing from the contract.
8. If the value of securities existing in our favour exceeds our receivables by total of more than 20%, we shall, at the Buyer's request, undertake in this respect to release securities of our choice.
9. The Buyer shall adequately insure all goods under retention of title against damage, fire and theft. Any claims for damages against the insurers shall hereby be assigned to us in the amount of the value of goods under retention of title.

VI. Periods of delivery and performance

1. Unless otherwise agreed, all deliveries are made „EXW Incoterms (2010) “(based on store from which we ship or seat of the plant instructed to make delivery). A delivery date for the supply of goods is deemed to have been met if the Buyer has received our dispatch advice/advice that goods are ready for collection by that date or – if so agreed – if we have handed over the goods to the transporting entity.
2. Where it is impossible for us to meet our obligations under the contract or only to do so with delay we are not liable to the extent that this is attributable to force majeure or other occurrences which were unforeseeable when the contract was concluded and for which we are not responsible (e.g. disruption to operations, fire, natural disasters, weather, flooding, pandemic, war, insurgency, terrorism, transport delays, strikes, lawful lockouts, shortage of energy, raw or human resources, delays in the issue of necessary official permits, official/sovereign measures). Failure of our upstream suppliers to supply us correctly or in time does not constitute an occurrence of this type unless responsibility for it lies with us, and if, at the time the contract with the Buyer was concluded, we had concluded congruent substitute transactions with our respective upstream supplier. This also applies if we entered into such congruent contracts without undue delay after concluding the contract

with the Buyer. This also applies if we entered into such congruent contracts without undue delay after concluding the contract with the Buyer. We are also entitled to withdraw from the contract if such occurrences make it substantially more difficult or impossible for us to perform our obligations under the contract and if such occurrences are more than just temporary. If, owing to the delay caused by such occurrence, the Buyer cannot be reasonably expected to accept performance the Buyer may withdraw from the agreement by making a written statement without undue delay; accepting performance would be deemed unreasonable if the probable new delivery date is at least 30 calendar days after the original delivery date or unknown.

3. Shipments and services (the fulfilment of contract) shall be under the proviso that fulfilment is not being restricted by any national or international regulations, particularly export control regulations and embargoes or any other restrictions. The contracting parties shall obligate themselves to provide all information and documentation needed for the export/domestic shipment/import. Delays caused by export checks or licensing procedures shall override any lead times or deadlines stipulated. If any required licenses for certain items cannot be obtained, the contract shall be considered as not concluded regarding the items in question; because of this and of above-mentioned transgression of deadlines, any claims for damages shall be excluded.
4. Delivery dates/times will be extended automatically by an appropriate period if the Buyer does not fulfil its contractual obligations or other duties to cooperate or other obligations. In particular, the Buyer is responsible for providing us promptly and in the correct format with all documents, information, samples, specimens and other information and items which it is required to provide and, if applicable for ensuring the technical resources, premises, HR and organizational circumstances needed for product assembly or similar services (such as installation, commissioning, set up/adjustment) are available.
5. The Buyer can annul the contract without giving notice if it finally proves impossible for us to perform all contractual services before passage of risk. Furthermore, the Buyer can annul the contract if it proves impossible for us to fulfil part of an order and he has a justified interest in refusing partial delivery. If this is not the case, the Buyer must pay that share of the contract price which covers the partial delivery. The same applies to inability on our part. Section IX, applies to other eventualities. If the impossibility or inability occurs during the acceptance delay, or if the Buyer bears the sole responsibility or a decidedly preponderant share of it, he remains obliged to render payment.
6. If the Buyer is in default of acceptance, we shall have the right to demand reimbursement of the loss incurred hereby, in particular we shall also have the right to forward the goods at our option or to store the goods at our discretion on the Buyer's account and the Buyer's risk.
7. The mode of forwarding, means of shipment, transport route as well as the nature and scope of necessary protective media, the choice of forwarder or carrier as well as packaging shall be left to our preference. This will be done at our discretion and with due care and attention to the exclusion of any liability whatsoever. The goods shall only be insured at the express request of the Buyer and at his expense.
8. Partial deliveries are permitted.

VII. Passing of risk

1. Unless nothing to the contrary is agreed, risk shall at all events pass to the Buyer when the goods are transferred to the forwarder or carrier, however at the latest when they leave the plant or warehouse.
2. Export control: The buyer will strictly observe the export regulations applicable to the goods, documentation and other data, in particular those of the EU, the Federal Republic of Germany and the export control law of the USA.
3. All complaints in respect of incomplete delivery, defective or incorrect goods must be reported to the Seller in writing without delay and at the latest within 10 days of receiving the goods. Deliveries shall otherwise be deemed as having been approved.

VIII. Claims based on defects

In the event of materially and legally defective goods being delivered, we perform the following guarantees, while reserving Section IX and barring any further claims:

Material defects

1. Cost-free repairs or, at our option, substitute deliveries of all parts or services which prove materially defective within the expiry period, insofar as the cause pre-existed the passage of risk.
2. The Buyer can only withhold payment if it is impossible to doubt the veracity of the notice of defect. If the complaint proves baseless, we are entitled to reclaim our ensuing costs from the Buyer.
3. At the outset, we are given an opportunity to order a substitute delivery within a reasonable period. If the substitute delivery fails, the Buyer – irrespective of any damage claims under the provisions of Section IX – can cancel the contract or reduce his payment.
4. Claims for defectiveness are not admissible if the goods vary only inconsiderably from their agreed characteristics, if their usefulness is only inconsiderably impaired, or if they have suffered natural wear or damage after passage of risk due to faulty or negligent treatment, the imposition of excessive strain or the use of unsuitable operating aids. We shall be entitled to reject complaints if the Buyer fails to submit the defective part to us within 4 weeks of being requested to do so; this shall not apply if submission is prevented by the nature of the part or by the manner in which it is installed etc.
5. Claims by Buyers to recover expenses necessitated by substitute delivery, especially transport, travel, labour and material costs, are inadmissible to the extent that the expenses have been increased by a subsequent transferral of delivered goods from the Buyer's business establishment to another place, unless the transferral is connected to the intended use of the goods.
6. Claims of recourse made against us by Buyers under section 478, German Civil Code (entrepreneur's recourse), are recognized only insofar as no agreement exceeding the statutory provisions for claims concerning defects exists between the Buyer and his customer. No. 5 likewise applies correspondingly to the extent of claims of recourse against us under section 478, paragraph 2, German Civil Code.

Legal defects

7. If we are required to deliver goods based on drawings, models, samples or exemplary parts supplied by the Buyer, he bears the onus of avoiding any violation of third-party protective rights in the country for which the goods are destined. We will inform

the customer of whatever rights we know of. The Buyer must release us from third-party claims and pay any ensuing damage. If a third party restrains us from manufacturing or delivering goods due to protective rights claimed by him, we are entitled – without checking the legal position – to interrupt the work pending legal clarification by the Buyer and the third party. If the delay is such that we cannot reasonably be expected to keep honouring the contract, we shall be entitled to annul it.

8. Barring any agreements to the contrary, we are obliged to deliver only within the country containing the delivery destination, unencumbered by industrial patent rights and copyrights held by third parties. If the use of the delivered object causes industrial patent rights or copyrights to be violated, we will in principle and at our expense procure for the Buyer the right to continue using it, or ensure that the delivered object no longer violates the rights concerned by modifying it in a manner which the Buyer can reasonably be expected to accept.
9. If this cannot be done on commercially reasonable terms or within a reasonable period, the Buyer will be entitled to annul the contract. Under the above-mentioned conditions, we too are entitled to annul the contract.
10. We will furthermore release the Buyer from uncontested or legally confirmed claims by the relevant holder of protective rights.
11. The obligations on our part mentioned in No. 9 are – in reservation of Section IX, – final in the event of patent or copyright violations.

They exist only if

- the Buyer has informed us without delay of registered claims concerning patent or copyright violations,
- the Buyer gives us reasonable support in countering the submitted claims or enables us to carry out the modifications as outlined in No. 7,
- all legal countermeasures, including out-of-court settlements, remain reserved to us,
- the legal defect does not arise from an instruction or special provision by the Buyer and
- the Buyer himself did not cause the violation of protective rights by wilfully altering the delivered object, using it in a contractually unforeseen manner or otherwise incurring responsibility for the violation.

IX. Liability

1. Unless otherwise set out in these General Supply and Payment Conditions, we shall be liable for a breach of contractual and non-contractual duties as provided for by statute.
2. We have unlimited liability – for whatever reason – for compensation for losses based on wilfully or grossly negligent breach of duty on our part or by any of our legal representatives or vicarious agents.
3. In the event of a negligent breach of duty by us or one of our legal representatives or vicarious agents we shall be liable only
 - a) – but without limit – for resultant losses arising from injury to life, limb or health;
 - b) or losses arising from a breach of material contractual duties. Material contractual duties are those duties which are material to proper performance of the agreement and on whose fulfilment the Customer generally relies or is entitled to rely. In this case, however, our liability is limited in amount to losses which are typical of this type of contract and which were foreseeable at the time the contract was concluded.

4. The liability limitations arising from (3) do not apply where we have maliciously failed to disclose a defect or where we have assumed a warranty in respect of the attributes of the goods or a procurement risk. This shall have no effect on mandatory liability in particular under the German Product Liability Act.
5. Where our liability is excluded or limited under the above provisions, this also applies to the personal liability of our directors and officers, legal representatives, employees, staff and vicarious agents.
6. The Buyer may only assert contractual penalties and liquidated damages for which it is liable to third parties in connection with goods which we have supplied – subject to all other criteria – as compensation, where this has been expressly agreed with us in writing or where the customer pointed this risk out to us before we entered into the contract with it.
7. Offshore-risks are completely excluded from the liability of ourselves and our third-party insurance provider.

X. Expiry

1. Notwithstanding § 438 (1) no. 3 German Civil Code, the expiry period for claims – including non-contractual claims – for quality defects and defects in title shall be [one (1)] year from delivery; this does not apply to the scenarios set out in Section IX (2), (3) a and b and (4). The respective relevant statutory expiry period applies thereto.
2. Delivery within the meaning of (1) sentence 1 shall mean arrival at the Buyer of our dispatch advice/advice that goods are ready for collection or – if so agreed – handover of the goods to the transporting entity. If the parties have agreed that the goods have to undergo an acceptance procedure, the limitation period begins on acceptance.
3. If the goods consist of a building or of an object which, in being used for its usual purpose, has been incorporated in a building and has caused the building to be defective, the limitation period will be five (5) years from delivery as provided for by statute (§ 438 (1) no. 2 a or b German Civil Code). This does not affect the statutory provisions regarding third-party claims for release in rem of goods (§ 438 (1) no. 1 German Civil Code..

XI. Copyright and industrial patent rights, moulds and tools

1. We reserve all rights of ownership and copyrights to drawing, samples and similar information. They may not be made available to third parties without our prior consent.
2. We shall, under all circumstances, claim the exclusive right of manufacture for those articles relating to designs, drawings and tools produced by us. Unless expressly permitted, it shall neither be possible to pass on or duplicate these documents and tools nor shall it be permitted to utilize or disclose the contents of such documents.

Contravention hereof shall give rise to a claim for damages. We reserve all rights in the event of a patent being granted and for registrations of design. The Buyer shall guarantee that the manufacture and supply of articles made to data provided by the Buyer do not violate the property rights of any third party. Moulds, templates and other devices shall remain our sole property, also in cases where the Buyer is invoiced with costs or expenses in respect thereof.

3. Insofar as we manufacture or procure any models, moulds, forms, tooling or any forming devices on behalf of the Buyer, we shall separately invoice part of the expense involved. As these partial costs do not cover the expenses accruing to us from design, construction, running-in, know-how and maintenance work, such moulds, forms as well as tooling and other auxiliary devices shall remain our sole property. The same shall apply to modifications or replacement models and tooling as also to subsequent moulds. The costs of tooling, moulds etc. shall be payable, plus statutory value added tax, upon receipt of invoice. We shall only be obliged to retain such articles for a period of 3 years following the date of the last shipment.

XII. Jurisdiction and other matters

1. Agreed jurisdiction for all mutual claims and obligations, including disputes arising from bills and checks receivable, shall be Regensburg.
2. If the contracting party suspends payment or if a petition is filed for insolvency proceedings against his assets or for out-of-court composition proceedings, then we shall be entitled to withdraw from the contract for the part not fulfilled.
3. German law shall be applicable. Application of the United Nations Convention of 11.4.1980 regarding contracts on the international purchase of goods shall be excluded.