

General Terms and Conditions of Sale of Froli GmbH & Co KG

1. Validity

- 1.1. These General Terms and Conditions of Sale and Delivery shall apply to all business relations with the Purchaser, in particular to the sale and delivery of goods, work performances and services by Froli GmbH & Co. KG, (hereinafter referred to as Froli).
- 1.2. The legal relationship between Froli and the Purchaser shall be governed exclusively by these General Terms and Conditions of Sale and Delivery (GTCS). Deviating, conflicting or supplementary General Terms and Conditions of the Purchaser shall only become part of the contract if and to the extent that Froli has expressly consented to their application. The requirement of consent shall also apply in particular if Froli carries out the delivery without reservation in the knowledge of the General Terms and Conditions of Business of the Purchaser.
- 1.3. The GTCS in their respective version shall also apply to future contracts for the sale and/or delivery of movable goods without the need to refer to them again in each individual case. The Purchaser shall be notified immediately of any amendments to the GTCS.
- 1.4. Individual agreements with the Purchaser (including ancillary agreements, supplements and amendments) shall take precedence over these GTCS. Subject to proof to the contrary, the content of such agreements shall be governed by a written contract or written confirmation by Froli.
- 1.5. Legally relevant declarations and notifications made by the Purchaser after conclusion of the contract (e.g. setting of deadlines, notifications of defects, declaration of withdrawal or reduction) must be made in writing or text form (e.g. letter, e-mail, fax) in order to be effective.
- 1.6. References to the applicability of statutory provisions shall only have clarifying significance. Even without such clarification, the statutory provisions shall therefore apply unless they are directly amended or expressly excluded in these GTCS.
- 1.7. The GTCS shall only apply to companies, legal entities under public law or special funds under public law within the meaning of Section 310 para. 1 of the German Civil Code (BGB).

2. Conclusion of the contract

- 2.1. Offers made by Froli are subject to change and are not binding.
- 2.2. The order of goods by the Purchaser is considered a binding offer of contract. Orders can be placed in writing or in text form.
- 2.3. Unless otherwise stated in the order, Froli shall be entitled to accept this contractual offer within 14 days of receipt. Acceptance shall be made in writing, in text form or by delivery of the goods to the Purchaser.
- 2.4. The contract is concluded subject to correct and timely delivery to Froli. In the event of incorrect or untimely delivery by Froli's suppliers, Froli shall inform the Purchaser without delay and notify him of the expected new delivery period. If the service is still not available within the new delivery period, Froli shall be entitled to withdraw from the contract in whole or in part. Any consideration already paid by the Purchaser shall be refunded without delay.

3. Deliveries, delivery periods, delay in delivery, retention

- 3.1. Delivery shall be made Ex Works (INCOTERMS 2020). The place of business is the place of performance for the delivery and for any subsequent performance.
- 3.2. Partial deliveries are permissible insofar as they are reasonable for the Purchaser.
- 3.3. Delivery periods shall commence after receipt of all documents and information to be submitted by the Purchaser and required for the execution of the order and the provision of the materials to be procured by the Purchaser and the payment of the deposit.
- 3.4. The occurrence of a delay in delivery by Froli shall be determined in accordance with the statutory provisions. In any case, however, a reminder by the Purchaser is required. The statutory rights of Froli, in particular to exclude the obligation to perform (e.g. due to impossibility or unreasonableness of performance and/or subsequent performance), shall remain unaffected.
- 3.5. The Purchaser shall only be entitled to claims for damages due to delayed delivery or the exclusion of the obligation to perform if Froli does not prove that it is not responsible for the delay in performance or the exclusion of the obligation to perform. Froli shall in particular not be responsible for a delay in performance or the exclusion of the obligation to perform if this is due to a lack of supply to Froli by its suppliers or contractors and Froli
 - a) has fulfilled the obligation to establish and maintain a safety stock as separately agreed with the customer, or
 - b) has taken the necessary and reasonable measures according to the quality management system (ISO 9001) applied at Froli to maintain the supply of parts even in the event of an interruption in the supply of externally provided products, processes and services.

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3.6. If, after conclusion of the contract, it becomes apparent that Froli's claim to the purchase price is jeopardised by the Purchaser's inability to perform, Froli shall be entitled to refuse performance in accordance with the statutory provisions and – if necessary after setting a deadline – to withdraw from the contract (Section 321 of the German Civil Code). This applies in particular in cases of

- imminent insolvency of the Purchaser
- sustained impairment of the creditworthiness of the Purchaser, e.g. in the event of rejection of a loan,
- delayed payments by the Purchaser at least twice within a period of three months in the case of longer-term supply relationships.

In the case of the manufacture of unjustifiable items (custom-made products), Froli may declare its withdrawal from the contract immediately without setting a deadline in advance. The statutory regulations on the dispensability of setting a deadline remain unaffected by this.

4. Packaging and shipping, transfer of risk

4.1. Unless otherwise agreed, Froli shall select the packaging, method of dispatch and dispatch route at its discretion.

4.2. The risk of accidental loss and accidental deterioration of the goods shall pass to the Purchaser upon handover, in the case of sale to destination upon delivery of the item to the forwarding agent, the carrier or the person otherwise designated to carry out the shipment. This shall also apply if partial deliveries, carriage paid or other deliveries have been agreed.

Insofar as an acceptance has been agreed, this shall be decisive for the transfer of risk. In all other respects, the statutory provisions of the law on contracts for work and services shall also apply mutatis mutandis to an agreed acceptance.

4.3. Handover or acceptance shall be deemed to have taken place if the Purchaser is in default of acceptance.

4.4. Transport insurance and other insurances shall only be taken out at the written request and expense of the Purchaser.

5. Disposal of packaging, take-back systems

5.1. We are registered as a manufacturer in the German packaging register LUCID under the number DE2033862869466. For the purpose of taking back and disposing of packaging waste, we have joined a corresponding system. You can also find further information under <https://www.verpackungsgesetz.com>.

5.2. We are registered as a manufacturer for the French take-back system:

ADEME unique ID FR208488_01JNHB – Registration with Citeo for the packaging sector,

ADEME unique ID FR246164_01AHZU – Registration with Zentek for household furniture.

6. Prices

6.1. Prices are net ex works excluding freight, customs, import duties and packaging.

6.2. If the decisive cost factors, such as material costs, change by more than 5% after submission of the offer or after order confirmation until delivery, each contractual partner has the right to demand an adjustment of the price. The adjustment of the price shall be asserted vis-à-vis the other contracting party in text form and by submitting the evidence documenting the increase/reduction. The parties shall then reach a mutually agreed decision on the price adjustment within three months of the assertion of the demand within the framework of a joint negotiation (negotiation period). Unless otherwise expressly agreed, the new prices fixed by the parties shall become valid upon conclusion of the agreement for all deliveries to be carried out thereafter. If the parties do not agree on a new price within three months or if the other party refuses to enter into negotiations despite a request for adjustment, each party shall be entitled to terminate the contractual relationship extraordinarily with a notice period of three months. The period begins with the fruitless expiry of the negotiation period or with the receipt of the declaration of refusal by the other contracting party. The right of termination under this Agreement shall have priority over any other contractual provisions agreed between the Parties.

7. Terms of payment

7.1. Unless otherwise agreed, the contractually agreed price shall be due for payment net without deduction within 30 days of invoicing. However, Froli shall be entitled at any time, also within the framework of an ongoing business relationship, to make a delivery in whole or in part only against advance payment. Froli shall declare a corresponding reservation at the latest with the confirmation of the order or the delivery call-off.

7.2. We reserve the right to refuse cheques or bills of exchange. Cheques and bills of exchange shall only be accepted on account of performance; all costs associated therewith shall be borne by the Purchaser.

7.3. The Purchaser shall only be entitled to rights of set-off or retention insofar as his claim has been legally established or is undisputed.

8. Tools

- 8.1. The price for tools also includes the costs for the initial sampling, but not other costs, such as the costs for testing and processing devices or initial sample parts. The costs for further sampling shall be borne by the Purchaser, insofar as these are not caused by a culpable breach of duty on the part of Froli.
- 8.2. Unless otherwise agreed, Froli shall remain the owner of the tools manufactured for the Purchaser by Froli itself or by a third party commissioned by it. Tools shall only be used for orders placed by the Purchaser as long as the Purchaser meets its payment and acceptance obligations.
- 8.3. Froli's obligation to store the tools expires two years after the last delivery of parts from the tool. The Purchaser shall be notified of the termination of the storage obligation.
- 8.4. If, according to the agreement, the Purchaser is to become the owner of the tools, ownership shall pass to the Purchaser after full payment of the purchase price for these tools. The handover of the tools to the Purchaser shall be replaced by the establishment of a loan relationship. Irrespective of the Purchaser's statutory claim to surrender of the tools and of the service life of the tools, Froli shall be entitled to possession of the tools vis-à-vis the Purchaser to the extent that it requires them for the fulfilment of manufacturing and delivery obligations owed to the Purchaser under a supply agreement.
- 8.5. In the case of tools owned by the Purchaser in accordance with para. 2 and/or tools provided by the Purchaser on loan, Froli's liability with regard to storage and care shall be limited to the same care as in its own affairs. The costs of maintenance, repair and insurance shall be borne by the Purchaser. Froli's obligations shall lapse if, after completion of the order and a corresponding request, the Purchaser fails to collect the tools within a reasonable period of time. In any case, Froli shall have a right of retention to the tools if and as long as Froli is entitled to claims against the Purchaser from the delivery relationship on which the provision of the tools is based.
- 8.6. In the case of the manufacture of customer-exclusive tools according to the specifications of the Purchaser, Froli shall not check for the infringement of any third-party property rights. Any infringements of property rights in this respect shall be the responsibility and liability of the Purchaser. Clause 11 of these GTCS remains unaffected.

9. Retention of title, property rights

- 9.1. Froli retains title to the goods sold until full payment of all present and future claims arising from the purchase contract and an ongoing business relationship (secured claims).
- 9.2. The goods subject to retention of title may not be pledged to third parties or assigned as security before full payment of the secured claims. The Purchaser shall notify Froli in writing without delay if and to the extent that third parties seize the goods belonging to Froli. This shall also apply to any damage to or destruction of the goods. The Purchaser shall notify Froli without delay of any change in ownership of the goods and of its own change of residence.
- 9.3. The Purchaser is authorised to resell and/or process the goods subject to retention of title in the ordinary course of business. In this case, the following provisions shall apply in addition.
 - The retention of title shall extend to the full value of the products resulting from the processing, mixing or combination of Froli's goods, whereby Froli shall be deemed to be the manufacturer. If, in the event of processing, mixing or combining with goods of third parties, the latter's right of ownership remains, Froli shall acquire co-ownership in proportion to the invoice values of the processed, mixed or combined goods. In all other respects, the same shall apply to the resulting product as to the goods delivered under retention of title.
 - The Purchaser hereby assigns to Froli by way of security all claims against third parties arising from the resale of the goods or the product, in whole or in the amount of any co-ownership share pursuant to the preceding paragraph. Froli accepts the assignment. The obligations of the Purchaser set out in the preceding paragraph shall also apply in respect of the assigned claims.
 - The Purchaser shall remain authorised to collect the claim in addition to Froli. Froli undertakes not to collect the claim as long as the Purchaser meets his payment obligations towards Froli, is not in default of payment, no application for the opening of insolvency proceedings has been filed and there is no other deficiency in his ability to pay. If this is the case, however, Froli shall be entitled to demand that the Purchaser discloses to Froli the assigned claims and the debtors thereof, provides all information necessary for collection, hands over the relevant documents and notifies the debtors (third parties) of the assignment.
 - If the realisable value of the securities exceeds Froli's claims by more than 10%, Froli shall release securities of its choice at the Purchaser's request.
- 9.4. Froli must be notified immediately of any attempts by third parties to seize or confiscate the goods subject to retention of title. Costs incurred by Froli in securing its rights in such a case shall be borne by the Purchaser, unless they are borne by the third party.
- 9.5. In the event of breach of contract by the Purchaser, in particular in the event of non-payment of the price due, Froli shall be entitled to withdraw from the contract in accordance with the statutory provisions and to demand return of the goods on the basis of the retention of title.

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- 9.6. Insofar as Froli makes use of its retention of title by taking back the goods subject to retention of title in accordance with the above provisions, it shall be entitled to sell the goods on the open market or have them auctioned off. The goods subject to retention of title shall be taken back at the proceeds thereby obtained, but at no more than the agreed delivery prices. Froli reserves the right to assert further claims for damages, in particular for loss of profit. This shall also apply in the event that the goods subject to retention of title have been manufactured using tools or instruments of the Purchaser. Froli shall also be entitled to sell or auction the goods subject to retention of title if the Purchaser has any industrial property rights in respect thereof. The Purchaser shall not assert any claims arising from these property rights against the buyer or the successful bidder of the reserved goods.
- 9.7. Unless expressly agreed otherwise, the delivery and/or transfer of ownership of the goods shall grant the contracting party rights of use to any copyrights, patents and other industrial property rights as well as to Froli's know-how only to the extent necessary for the further use of the products delivered by Froli (e.g. incorporation in its own products, sale).

10. Material deliveries of the Purchaser

- 10.1. If the Purchaser undertakes to deliver materials for Froli's production, delivery shall be made at the Purchaser's expense and risk, with a reasonable quantity surcharge to be agreed with Froli in advance, in good time and in perfect condition.
- 10.2. An incoming goods inspection of the materials provided shall only be carried out to the contractually agreed extent.
- 10.3. If the materials are not delivered on time by the Purchaser or if the materials do not correspond to the stipulated specification, the delivery time shall be extended accordingly. Any costs arising from this shall be borne by the purchaser.

11. Claims for defects

- 11.1. The statutory provisions shall apply to the rights of the Purchaser in the event of material defects and defects of title, unless otherwise stipulated in the following. In all cases, the special statutory provisions shall remain unaffected in the case of final delivery of the unprocessed goods to a consumer, even if the consumer has processed them further (supplier's recourse pursuant to Sections 445a, 445b, 478 of the German Civil Code). Claims from supplier recourse are excluded if the defective goods have been further processed by the Purchaser or another entrepreneur, e.g. by incorporation into another product.
- 11.2. The basis of Froli's liability for defects is the contractual agreement reached on the subjective and objective quality of the goods. Assurances for certain properties of the delivery item and for the performance of moulds as well as guarantees must be made expressly and must in any case be in writing. The normal condition of an item does not include its repairability.
- 11.3. Insofar as the quality has not been agreed, the defectiveness shall be assessed in accordance with the statutory regulations. This does not imply that the item is repairable. This is not considered a quality requirement. Froli accepts no liability for public statements, recommendations, advertising made by Froli's suppliers or other third parties (e.g. advertising statements made by sales representatives or sub-suppliers) or for statements of which Froli itself and the Purchaser were not aware and could not have been aware and which had been corrected by the time the contract was concluded.
- 11.4. The Purchaser's claims for defects presuppose that he has fulfilled his legally owed obligations to examine the goods and give notice of defects (Sections 377, 381 para. 2 of the German Commercial Code).
- 11.5. In the event of the delivery of defective goods, the Purchaser may, if the respective statutory requirements and the requirements set out below are met and unless otherwise agreed, demand the following:
1. The Purchaser shall first give Froli the opportunity, at Froli's discretion, to sort out the goods and to rectify the defect or make a subsequent delivery, unless this is unreasonable.
 2. If Froli is unable to do so or fails to do so within a reasonable period, the Purchaser may withdraw from the contract or reduce the price.
- The other statutory rights in respect of defects shall remain unaffected by this.
- 11.6. In the event of a minor breach of contract, in particular in the event of minor defects, the Purchaser shall not be entitled to withdraw from the contract. If Froli is not responsible for the breach of duty resulting from a defect, the Purchaser shall also not be entitled to withdraw from the contract.
- 11.7. Froli's right to refuse subsequent performance under the statutory conditions shall remain unaffected.
- 11.8. Froli shall be entitled to make the supplementary performance owed dependent on the Purchaser paying the purchase price due. The Purchaser shall, however, be entitled to retain a reasonable part of the purchase price in relation to the defect.
- 11.9. The Purchaser shall give Froli the time and opportunity required for the subsequent performance owed, in particular to hand over the rejected goods for inspection purposes. In the event of a replacement delivery, the Purchaser shall return the defective goods to Froli in accordance with the statutory provisions.

- 11.10. The expenses necessary for the purpose of inspection and subsequent performance, in particular transport, travel, labour and material costs, shall be borne by Froli if a defect is indeed present. However, if a request by the Purchaser to remedy a defect turns out to be unjustified, Froli shall be entitled to demand reimbursement from the Purchaser of the costs it has incurred in connection with the inspection and other measures in connection with the unjustified notice of defect.
- 11.11. The right to a repair is excluded. It is at Froli's sole discretion whether to carry out a repair or provide a replacement. Where rectification takes the form of a repair, this shall not result in an extension of the warranty period.
- 11.12. Claims of the Purchaser for damages or reimbursement of futile expenses shall only exist in accordance with clause 11 and shall otherwise be excluded.
- 11.13. In particular, unauthorised reworking and improper handling of the delivery items by the Purchaser shall result in the loss of all claims for defects if and to the extent that it cannot be excluded that the symptom behind which the defect was suspected was caused thereby.

12. Other liability

- 12.1. Unless otherwise stipulated in these GTCS, including the following provisions, Froli shall be liable for a breach of contractual and non-contractual obligations in accordance with the relevant statutory provisions. Accordingly, liability always presupposes that Froli is at fault for the damage incurred, unless the law provides for strict liability, such as the German Product Liability Act.
- 12.2. Froli shall be liable for damages, irrespective of the legal grounds, in the event of intent and gross negligence.
- 12.3. In the event of simple negligence, Froli shall only be liable for
- damages arising from injury to life, limb or health
 - damages arising from the breach of a material contractual obligation (an obligation the fulfilment of which is a prerequisite for the proper performance of the contract and the observance of which the Purchaser regularly relies on and may rely on); in this case, however, Froli's liability shall be limited to compensation for the foreseeable, typically occurring damage.
- 12.4. The limitations of liability resulting from clause 11.3 shall not apply insofar as Froli has fraudulently concealed a defect or has assumed a guarantee for the quality of the goods. The same shall apply to claims of the Purchaser under the German Product Liability Act.
- 12.5. If a claim is made against the Purchaser on the basis of strict liability in accordance with non-mandatory law vis-à-vis third parties, Froli shall be liable to the Purchaser to the extent that Froli would also be directly liable. Section 254 of the German Civil Code shall apply accordingly to the compensation of damages between Froli and the Purchaser. This shall also apply if a direct claim is made against Froli.
- 12.6. Froli shall be liable for measures taken by the Purchaser to avert danger (e.g. recall) in accordance with the statutory provisions.
- 12.7. The Purchaser may only withdraw from the contract due to a breach of duty that does not consist of a defect if Froli is responsible for the breach of duty. In all other respects, the statutory provisions shall apply.
- 12.8. A free right of termination of the Purchaser (in particular according to Sections 650, 648 of the German Civil Code) is excluded.

13. Limitation period

- 13.2. In deviation from Section 438 para. 1 no. 3 of the German Civil Code, the general limitation period for claims arising from material defects and defects of title shall be one year from delivery.
- 13.3. The statutory limitation periods shall apply exclusively to claims for damages by the Purchaser due to injury to life, limb or health. The same shall apply to claims for damages based on a grossly negligent breach of duty by Froli or on an intentional or grossly negligent breach of duty by its legal representatives or vicarious agents.
- 13.4. The limitation periods of the German Product Liability Act remain unaffected.

14. Confidentiality, other property rights

- 14.1. The Purchaser and Froli undertake to treat as business secrets all commercial and technical details that are not in the public domain and that become known through the business relationship.
- 14.2. Drawings, models, templates, samples and similar items may not be handed over or otherwise made accessible to unauthorised third parties. The reproduction of such items is only permitted within the scope of operational requirements and copyright provisions.
- 14.3. Each party retains ownership and any rights to the documents or data carriers provided by it, in particular to quotation documents and technical documentation. Reproductions and disclosure of such documents or data carriers shall only be permitted with the consent of the party providing them.

15. Choice of law and place of jurisdiction

- 15.1. These GTCS and all legal relationships between Froli and the Purchaser shall be governed by the laws of the Federal Republic of Germany to the exclusion of the UN Convention on Contracts for the International Sale of Goods. The German version of these GTCS is authoritative. The English version is for information purposes only.
- 15.2. The prerequisites and effects of the retention of title pursuant to clause 8 shall be subject to the law of the respective location of the item, insofar as the choice of law made in favour of German law is inadmissible or ineffective thereafter.
- 15.3. The exclusive place of jurisdiction, including international jurisdiction, for all disputes arising directly or indirectly from the contractual relationship shall be Froli's place of business. However, Froli shall also be entitled to bring an action at the general place of jurisdiction of the Purchaser.
- 15.4. Should individual provisions of the contract, including these general terms and conditions of sale, be or become invalid in whole or in part, this shall not affect the validity of the remaining provisions. In this case, the contracting parties undertake to work towards replacing the invalid provision with a valid provision that comes closest to the meaning and purpose of the invalid provision.