

## §1 Scope

- (1) The following General Terms and Delivery Conditions are applicable to all our business transactions.
- (2) BWF Profiles exclusively apply these General Terms and Delivery Conditions. Differing, contrary or additional terms and conditions shall not be applied, unless BWF Profiles explicitly accepted them in writing. A written confirmation is required in any case, even if BWF Profiles deliver goods to a customer without reservation, although BWF Profiles are aware of contrary or complementary conditions stated by the Customer. BWF Profiles do not acknowledge or accept contrary or additional conditions if referring to documents issued by the Customer which contain their or a third party's General Terms and Delivery Conditions or refer to them.
- (3) In Compliance with §§ 433, 651 German Civil Code (BGB), the General Terms and Delivery Conditions are applicable for contracts of sale and/or delivery of movable items („Goods“), regardless whether the Goods are produced by BWF Profiles or provided by sub-suppliers. These General Terms and Delivery Conditions are also valid for any future contracts of sale and/or delivery of movable items between the two parties. Even if BWF Profiles are aware of differing or contrary conditions, but nevertheless deliver the Goods without reservation, BWF Profiles are not obliged to explicitly refer to the General Terms and Delivery Conditions. These terms and conditions are superior to any other agreement existing between BWF Profiles and the Customer. The Customer shall be informed immediately if the General Terms and Delivery Conditions are altered in any way.
- (4) Individual agreements with the Customer (including additional or complementary agreements as well as alterations) are superior to the General Terms and Delivery Conditions. The content of such individual agreements shall be confirmed in written form.
- (5) No legally relevant statement or declaration (e.g. deadlines, defects, cancellations or reductions), which is issued by the Customer after signing the contract, shall be deemed accepted unless confirmed in writing.
- (6) References to legal regulations are stated for explanatory reasons only. Also without further explanations, German law applies to all BWF Profiles business transaction unless explicitly changed or excluded in the General Terms and Delivery Conditions.

## §2 Quotation, Conclusion of Contract and Quotation Documents

- (1) BWF Profiles' quotations are subject to change and non-binding. This is especially applicable for our catalogues, technical documentation (pictures, drawings, blue prints, calculations, any reference to DIN standards as well as weight and dimensional measures) and other product details or data - including electronic data - which form part of the quotation.
- (2) A purchase order sent by the Customer is a binding contract offer. A contract does not come into existence unless confirmed by BWF Profiles in writing or until the Goods have been delivered to the Customer. Confirming the receipt of an order shall not be seen as a binding order confirmation. Warranties for the goods are not binding unless explicitly guaranteed in writing.
- (3) Pictures, drawings, calculations and other documents listed in § 2 subsection 1 phrase 2 of these General Terms and Delivery Conditions remain our legal property, all rights reserved. They must be treated as confidential even if not explicitly marked as "confidential". Therefore, they must not be shown to third parties, but protected in the way the Customer protects his own data and know-how. Documents must not be treated confidentially if (i) the Customer had the piece of information before BWF Profiles informed him and the Customer is in the position to prove this within four weeks after receiving the piece of information, (ii) the information had been publicly known before BWF Profiles informed the Customer or (iii) the information is made generally known after BWF Profiles informed the Customer and without the Customer being involved in the act of making it known. For all data and documents mentioned in phrase (1), the rights of use shall remain reserved by BWF Profiles. The Customer does not acquire any property rights. The data must not be duplicated unless stated otherwise.
- (4) The Goods are subject to standard aberrations in terms of quantity or appearance. These aberrations must be accepted by the Customer unless they are essential or unacceptable. Acceptable and minor are standard aberrations with regards to quantity of up to [2%]. These aberrations are not a defect as defined in §9 (1). The same is valid for aberrations in terms of appearance which are in accordance with standard commercial practice, and do not interfere with the purpose of usage or common usage of the product. Examples are minor aberrations with regards to colour, dimensions and weight.

## §3 Prices and Payment

- (1) The quoted prices, plus compulsory VAT, are "Ex Works" prices only and do not include packing cost, unless explicitly agreed otherwise.
- (2) The Customer must pay freight costs arising from the sales shipment (see §6 section 2 phrase 2 of these General Terms and Delivery Conditions) including possible insurance costs. Tolls, fees, taxes and other public charges must be paid by the Customer. Property rights for packing (necessary for transport and other reasons) are assigned to the Customer, BWF Profiles do not take back any packing material.
- (3) The Customer shall pay for the Goods no later than 14 days after the issue date of the respective invoice and the delivery / collection date. The amount shall be paid net, plus VAT. Settling the invoice after more than 14 days means a delay in payment and therefore, the prices bear the current rate of interest for the period until the invoice is settled. The right to issue further claims because of any damage caused by the delay is reserved. Deducting a discount needs to be agreed in written form. BWF Profiles also reserve the right to claim interest after the due date according to § 353 German Commercial Code (HGB). The Customer must not offset the amount, unless his claim is unarguably or legally valid.

## §4 Allowance and Retention

- (1) The Customer is only entitled to reduce the payable amount if his claims are unquestionable and proved legally valid. The Customer is only entitled to retain property based on counterclaims granted by the same contract. Receiving Goods with deficiencies, the Customer's rights remain unaffected by § 9 subsection 6 phrase 2 of these General Terms and Delivery Conditions.

## §5 Lead Time and Delay in Delivery

- (1) The stated lead times are approximate only and subject to change as well as self-supply, unless stated otherwise and confirmed in writing. Fixed lead time agreements refer to the date when the Goods are being handed over to the responsible logistics provider. BWF Profiles comply with the indicated lead time as long as the Goods are ready for shipment and given that the Customer had been informed about that.
- (2) In case BWF Profiles are not able to deliver the Goods within the agreed lead time because of events they have no influence on (unavailability of service), the Customer will be informed immediately and new lead times will be agreed. If the updated lead times cannot be realized either, BWF Profiles has the right to partially or entirely rescind the contract. If any payments have already been made by the Customer, BWF Profiles must refund them promptly. A service is not available if BWF Profiles are not supplied with goods by hired suppliers, if BWF Profiles agreed to a congruent hedging transaction, if neither BWF Profiles, nor the supplier are responsible for the unavailability or, in individual cases, if BWF Profiles are not obliged to provide the Goods.

## §6 Delivery, Passing of Risk, Acceptance and Delay in Acceptance

- (1) The Customer must comply with all responsibilities in time and duly to ensure the delivery of the Goods. All rights to make a plea in terms of the default in contract are reserved.
- (2) BWF Profiles deliver "Ex Works", the BWF Profiles premises being the place of fulfillment. On request, the Goods will be shipped to another destination (sale by dispatch). All costs arising from this shipment shall be paid by the Customer. BWF Profiles is entitled to choose the means of shipment, e.g. the logistics provider, packing, etc. if not stated otherwise.
- (3) The risk of accidentally losing or worsening the Goods is passed to the Customer at the time of handing over the Goods. In compliance with § 6 subsection 2 phrase 2 of the General Terms and Delivery Conditions, the risk of accidentally losing or worsening the Goods is already passed on to the logistics provider during the delivery for sale by dispatch. The risk is being passed simultaneously with the acceptance, if not stated otherwise. The regulations of the Act of Work and Labour are also applicable. The handover, respective takeover, will be considered as acceptance even if the customer is in delay of the acceptance.
- (4) If the Customer accepts the Goods too late, does not comply with agreed actions or delays the delivery because of any other reason, BWF Profiles are entitled to charge the Customer with all additional costs (e.g. storage charges). In general, the measure for the reimbursement of expenses is 0.5% of the delivery value in EUR per commenced calendar week, max. 10% of the delivery value in EUR starting with the first day of the agreed delivery time or - in default of time of delivery - with a notification that the Goods are being ready for dispatch.
- (5) Providing evidence for more intensive claims and other legal claims (especially the reimbursement of additional expenses, appropriate indemnities as well as cancellations) remain unaffected. However, the standard measure shall be deducted from further claims. The Customer may provide evidence that there did not arise any or only substantially less loss for BWF Profiles than covered by the standard measure for reimbursement.

## §7 Reservation of Title

- (1) The Goods remain BWF Profiles' property unless all current and future claims arising from the contract of sale and ongoing business transactions (secured claims) are completely settled.
- (2) The Goods for which BWF Profiles reserved the title must neither be pawned nor transferred to a third party unless all open payments have been settled. The Customer shall immediately inform BWF Profiles in writing if and when third parties have access to BWF Profiles property.
- (3) In case the Customer does not comply with the contract, e.g. does not pay the due price, BWF Profiles are entitled to rescind the contract in compliance with all legal regulations and to claim the return of the Goods based on the reserved title and the rescindment. This right can only be applied if the Customer had been informed about an appropriate time limit for the settlement of the invoice without success or if such a time limit is not necessary according to legal regulations.
- (4) The Goods shall be handled with care, insured appropriately and, if necessary, sent back to BWF Profiles in the original packing.
- (5) Unless the due amount has been settled completely, BWF Profiles must be immediately informed in case the Goods become subject to third party rights or if there arises any interference from a third party.
- (6) Within the standard course of business, the Customer may resell and/or process the Goods despite the reservation of title in compliance with the sections below.
  - (a) A product resulting from processing, mixing and combining the purchased Goods becomes subject to the reservation of title, BWF Profiles being the manufacturer. In case Goods supplied by BWF Profiles are processed, mixed or combined with goods provided by other suppliers who have also reserved the title of their goods, the end product results in a joint ownership. The end product is subject to the same regulations as the provided Goods whose titles are reserved.

- (b) All claims against third parties, arising from reselling the Goods or selling the end product, are being assigned to us (completely or partially) and BWF Profiles accept the cession. The Customer's responsibilities listed in § 7 subsection 2 of these terms and conditions are also applicable for all resigned claims.
- (c) However, the Customer's right to collect the debt remains unaffected. BWF Profiles must not collect the debt unless the Customer is unable to comply with the obligation to pay, unless there is a default in payment, unless there is a petition for insolvency or any other reason for mistrusting their performance. In case one of these presuppositions does apply, the Customer shall disclose all resigned debts and the respective debtor, give all necessary information and hand over all corresponding documents as well as inform the debtor about the cession.
- (d) Does the realisable value of the assets exceed the claims of BWF Profiles for more than 10%, the Customer shall be entitled to claim more assets.

## §8 Moulds and Tooling

- (1) BWF Profiles are and remain the owner of all moulds and tooling produced by BWF Profiles or third parties which are necessary to provide the Customer with plastic parts or plastic profiles. BWF Profiles stores moulds and tools for 6 years following the last plastic delivery. Said moulds and tools are to be stored for free during that time to be used for any other order for this Customer. After expiration of 6 years, BWF Profiles disposes of these moulds and tools without informing the Customer prior nuncupative or in writing.
- (2) Any agreement stating that the Customer will become the owner of the moulds or tooling must be documented in writing. The ownership of the moulds or tooling is being transferred to the Customer after the payable amount explicitly stated in the order has been settled. In case there is no extra price for the moulds or tooling listed in the quotation, the ownership is being transferred to the Customer after the due amount for the plastic forms or plastic profiles has been settled. In case such an agreement is made after placing the order, the Customer will become the owner of the moulds or tooling as soon as the agreed amount stated in the additional agreement has been settled. Handing over the moulds or tooling to the Customer can be replaced by storing the parts on BWF Profiles premises (see subsection 1). BWF Profiles are only in possession of the moulds and tooling while storing them, the moulds and tooling being marked as property of the Customer and, if requested and paid by the Customer, insured. It is up to BWF Profiles' decision to replace the handing over of the moulds and tools by means of financial compensation. The corresponding value of the compensation is to be determined individually between owner and supplier.
- (3) In compliance with § 8 subsection 1 and 2 of the General Terms and Delivery Conditions, all moulds and tooling will be exclusively used for realizing the Customer's orders.
- (4) All changes regarding moulds and tooling which are being requested by the Customer after placing the order must be charged with additional costs. Changes and all additional costs arising from these changes shall be documented in writing.

## §9 Warranty

- (1) All common legal regulations shall be applicable for any possible material and legal defects (including wrong and short deliveries as well as incorrect assembly or bad manuals), unless stated otherwise. In compliance with §§ 478, 479 German Civil Code and the recourse for suppliers, all agreements in terms of deliveries for end users shall remain unaffected.
- (2) BWF Profiles warranties are based on the defined properties of the Goods as previously agreed upon. All product descriptions which are subject to the respective contract shall be seen as agreements on the properties of the Goods regardless whether the descriptions are provided by the Customer, the Manufacturer or BWF Profiles.
- (3) Defects shall be assessed in compliance with § 434 subsection 1 page 2 and 3 German Civil Code, unless the properties have been explicitly defined. BWF Profiles do not assume liability for any public statements made by the Manufacturer or others (e.g. advertisements).
- (4) In compliance with §§ 377, 381 German Commercial Code (HGB), the Customer may only voice warranty claims if having complied with all legal responsibilities. All defects resulting from a thorough investigation or discovered afterwards must be immediately reported in writing. In order to be seen as reported immediately, the report has to be sent within two weeks, the mailing date being the important reference. BWF Profiles do not assume any liability for defects (incl. wrong or short delivery) which have not been discovered and/or reported within two weeks after receiving the Goods.
- (5) If the Goods are defective, BWF Profiles is entitled to choose between repairing the defective parts or replacing the Goods entirely. Nevertheless, the right to refuse any correctional actions remains unaffected.
- (6) BWF Profiles are entitled to claim the payment of the due price before realizing any correctional actions. However, the Customer may retain a certain amount of the payable price, corresponding with the value of the defective Goods.

- (7) There shall be enough time and possibilities to realize any correctional actions. Additionally, the rejected Goods shall be handed over to BWF Profiles in order to permit a thorough investigation. In case the rejected Goods shall be replaced, the Customer shall also hand them over to BWF Profiles. The correctional actions do not include assembling or disassembling the rejected Goods, unless stated otherwise.
- (8) Given that the Goods are indeed defective, BWF Profiles settle all costs arising from testing and correcting the defect (e.g. transport costs, personnel expenses, material costs excluding costs for assembly). In case the claims prove to be unauthorised, BWF Profiles reserve the right to reclaim these costs.
- (9) The Customer may correct the defects himself if they endanger the operational safety or in order to prevent major damage. BWF Profiles must be informed about these corrections immediately (if possible prior to the correction) and can be charged for the costs if the claims are justified.
- (10) Given a material defect, the Customer can rescind the contract or reduce the stated price if the correctional actions fail or if a defined period of time in which the correctional actions should have been realized did pass or was not necessary. In case of a minor defect, the Customer is not entitled to rescind the contract.
- (11) Compensatory damage claims are only valid in compliance with § 10 of the General Terms and Delivery Conditions.

## §10 Liability

- (1) BWF Profiles assume liability for any breach of the contract in compliance with the General Terms and Delivery Conditions, unless stated otherwise.
- (2) Damages can only be granted if the defects are caused intentionally or due to gross negligence. BWF Profiles assume liability for defects caused by slight negligence
  - (a) if they are affecting the life, the body or the health of somebody.
  - (b) if they result from a major breach of the contract (i.e. not complying with agreements which must be met in order to fulfill the contract); under such circumstances, BWF Profiles limit the liability to compensate only the foreseeable, typical defects.
- (3) All limitations in terms of liability, resulting from § 10 subsection 2 of these General Terms and Delivery Conditions and all claims uttered in compliance with the German Product Liability Act are applicable, unless we fraudulently concealed a defect or previously accepted liability for the properties of the Goods.
- (4) If BWF Profiles is responsible for a breach of the contract which does not result in a defect, the Customer may rescind the contract. The Customer does not have the right to cancel the contract as stated in §§ 651, 649 German Civil Code (BGB), however, any other legal regulations and the resulting consequences are applicable.

## §11 Statute of Limitations

- (1) Not complying with § 438 subsection 1 phrase 3 German Civil Code (BGB), BWF Profiles grants a general limitation period of one year after delivery (or acceptance) of the Goods for any claim resulting from material or legal defects.
- (2) The foresaid limitation periods from the Contracts for the Sale of Goods are also applicable for all contractual and non-contractual damage claims uttered by the Customer which are based on defective Goods, unless applying the standard legal limitation period according to §§ 195, 199 German Civil Code (BGB) would result in a shorter limitation period. However, the limitation periods granted in the German Product Liability Act remain unaffected. For any other claims made by the Customer in compliance with § 10 (2) phrase 1 and 2 a) of these General Terms and Delivery Conditions, the legal limitation periods are applicable.

## §12 Governing Law and Jurisdiction

- (1) These General Terms and Delivery Conditions and all privities between BWF Profiles and the Customer are subject to the governing German law, explicitly excluding international jurisdiction, especially the United Nations Convention on Contracts for the International Sale of Goods. Given that the chosen jurisdiction is in favour of the German law ineffective, all presuppositions and results of the reservation of title in compliance with § 7 of these General Terms and Delivery Conditions are subject to the governing law at the respective place where the Goods are.
- (2) Memmingen is the only national and international place of jurisdiction and implementation for all legal disputes arising directly or indirectly from the contract if the Customer is seen as a merchant in terms of the German Commercial Code (HGB), a juridical person according to public law or a special public asset. BWF Profiles are also entitled to claim charges at the Customer's general place of jurisdiction.