

General terms and conditions

1. Scope of application / Definition

- 1.1 The following conditions are binding in respect of all deliveries to be made by Semadeni (referred to below as the "supplier"). By placing an order of any kind, the customer (referred to below as the "customer") acknowledges the following conditions. Divergent conditions of purchase of the customer are binding on the supplier only if he has expressly acknowledged them.
- 1.2 For special productions and in special circumstances, differing/supplementary provisions may apply. In every case, differing provisions are valid only if they have been agreed in writing.
- 1.3 The nature and scope of the delivery are indicated in the written order confirmation made out by the supplier. Agreements which differ from the order confirmation become binding only if they are confirmed in writing by the supplier. Differing provisions in the order confirmation take priority over these general terms and conditions and also over the conditions of delivery for specific countries set out from section 18.
- 1.4 The conditions of delivery for specific countries set out from section 18 take priority over the following general provisions.
- 1.5 All delivery conditions contained in these general terms and conditions of business are guided by the regulatory provisions contained in Incoterms 2010.
- 1.6 Should any particular provisions of these general terms and conditions of business be invalid now or become invalid in future, that will not affect the remaining provisions.
- 1.7 Production articles are individually manufactured items, defined by 5- or 6-digit article numbers always beginning with KB-4... or SP-4... or 4....
- 1.8 Standard items are defined as all other products not covered by chapter 1.7, especially items listed in the catalogue
- 1.9 In the event of inaccuracies in the translated texts, the general terms and conditions of business in German will take priority over the foreign language versions.

2. Prices

- 2.1 The prices listed in the catalogue are not binding. The prices only become binding upon confirmation of the order or upon delivery of the goods with the supplier's invoice.
- 2.2 Prices are considered as ex works from the supplier's premises (EXW marked location) in the currency stipulated on the corresponding documentation (CHF Swiss francs or EUR euros) and do not include packaging, transport insurance and other taxes, or the applicable amount of VAT (the right to charge additional fees in the event of changes to the tax regulations or position of the tax authorities is expressly reserved).
- 2.3 If cost factors (raw materials, exchange rate supplements etc.) change after the supplier has issued the order confirmation, price adjustments may be made.
- 2.4 The right to make price adjustments is reserved in cases where modifications are subsequently requested to tools or injection moulded parts and other specifically manufactured products.
- 2.5 In the case of follow-on orders, the supplier is not bound by the prices stated in previous order confirmations.

3. Payment terms

- 3.1 **Goods:** All accounts fall due when the invoice is issued and are payable within 30 days from the date of invoice without any deduction to a bank account/postal account indicated by the supplier. Offsetting against any claims of the customer on the supplier (e.g. because of complaints) is excluded. Payments to employees or commercial travellers of the supplier are not permitted, with the exception of cash payments at the reception desk of the head office. For the collection of payments made by cheque, a charge of CHF 10/EUR 7 will be made and this may be billed when the next order is placed. Differing arrangements may be made for particular orders, provided that they are set down in writing. In particular, advance payments and/or instalment payments or other sureties may be required.
- 3.2 **Tools:** At least 50 % on receipt of the order confirmation, net. The remainder will be payable immediately after acceptance of the sample delivery.
- 3.3 **Payment arrears:** In the event of payment arrears, new payment terms may be stipulated for all outstanding orders. From the second warning, a charge in the flat-rate amount of CHF 15/EUR 10 per warning will be invoiced. Moreover, even without prior warning, interest on arrears will be charged to the customer from the first day of the arrears in the amount of 5% of the outstanding sum. The supplier is likewise entitled to require the customer to make good all necessary payment collection and legal action costs, including attorneys' costs. The right to claim compensation for further prejudice is specifically reserved. If the customer is in arrears, the supplier is entitled to withdraw from the agreement and to require goods already delivered to be returned.

4. Delivery, delivery lead-times and late delivery

- 4.1 The delivery lead-times for goods, tools and samples will be stipulated in writing in the order confirmation together with an indication of the planned delivery date. A specific delivery date is binding only if it is expressly confirmed as a fixed date in the order confirmation at the request of the customer. The lead-times begin to run on receipt of all the necessary documents, any required instalment payments and timely procurement of materials and/or tools needed to perform the order or effect the delivery. The delivery lead-time is deemed to have been respected when notification is given to the customer of readiness for dispatch. If an agreed fixed lead-time is exceeded, the supplier will not be deemed to be late until a special written warning has been issued by the customer; section 4.2 below is reserved. In the event of late performance, the customer is only entitled to withdraw from the agreement after setting an appropriate period of grace. Claims of the customer for compensation are excluded in every case.
- 4.2 In the event of unforeseen circumstances, such as force majeure and delays in the procurement of goods, materials and tools, the supplier is entitled to extend the delivery lead-times by the duration of the impact of such events; it is immaterial whether these events have occurred within or outside our own business. The customer cannot therefore make claims in respect of arrears or other claims for compensation. If the delivery lead-time is extended by more than six months, both the supplier and the customer may withdraw from the agreement.
- 4.3 Where modifications are requested to ordered tools, injection moulded workpieces or goods specifically made or finished for the customer, or if such modifications prove to be necessary, new delivery lead-times must be set. In any such case previously agreed delivery lead-times, in particular fixed delivery dates, cease to be binding.
- 4.4 If the customer is late in discharging his own obligations to the supplier in respect of current or previous deliveries, the obligation to deliver will rest, as will the binding nature

of the delivery dates for all outstanding orders. The terms of delivery will be determined once again after receipt of payment. Any entitlement of the customer to compensation is excluded.

- 4.5 Orders on call/framework contracts are to be agreed specially. The supplier is at liberty to make the whole series available at once or only parts thereof. The delivery times will be guided by the agreements reached, points 4.1 to 4.4 being applicable. Requests for changes between the part-deliveries or for the adjustment of delivery cycles may have cost consequences.
- 4.6 Where part-deliveries in respect of call orders/framework contracts (see section 4.5) are not requested within the agreed time limit, the supplier will be entitled to present an invoice for the quantity which has not yet been procured and to require its acceptance within 14 days. If the originally ordered quantity is not called within the agreed time limit, the supplier is entitled to request a proportionate refund of rebates granted on a quantity-related basis. On the expiry of the acceptance period, the goods will be stored by the supplier for a maximum of 6 months for the account and at the risk of the customer. Thereafter the supplier reserves the right to dispose of the goods at the cost of the customer. In the case of standard products (articles with a 4 digit article number), any call order/framework contract which has not been taken in full by the customer may be terminated; in any such case, the supplier is entitled to request a subsequent refund of all rebates for quantity granted in advance.
- 4.7 Where "complete delivery" is not expressly agreed in writing, the supplier reserves the right to make part-deliveries. In that case, the transport and packaging costs for each part-delivery will be charged.

5. Minimum quantities / Excess quantities and shortfalls

- 5.1 In the case of all articles for which a price for quantity is quoted, the minimum order quantities are to be respected. This applies in particular to disposable articles, packaging articles and articles which are priced per 100/1000 pieces.
- 5.2 The supplier reserves the right to effect an excess delivery or shortfall of up to 10% of the ordered quantity in the case of articles with a price quoted by quantity.

6. Consignment and transport risk/transfer of benefit and risk

- 6.1 Save where otherwise expressly agreed in writing with the customer, the consignment route and type of consignment will be chosen at the supplier's own discretion. Transport and packaging costs will be charged at the actual cost incurred or as a flat-rate price.
- 6.2 The benefit and risk will be transferred to the customer as soon as the ordered goods leave the suppliers' works.
- 6.3 If acceptance or dispatch are delayed because of the conduct of the customer, the latter will bear the benefit and risk from the time of handover or readiness for dispatch.
- 6.4 At the written request of the customer, the goods will be insured at his expense against breakage, transport and fire damage.

7. Returns

- 7.1 Where goods have been wrongly ordered or ordered in excess quantities, there is in principle no obligation to take them back. In exceptional cases, return of the goods may be agreed with the supplier, but in every case this requires his prior written authorisation.
- 7.2 If the supplier approves the return, he is entitled to charge compensation for additional work (charge for replacing storage) in the amount of CHF 30/EUR 20.
- 7.3 The returned goods must be in perfect condition. The supplier organises return transport with his forwarding agent. The cost of return transport will be deducted from the credit note. A credit will only be granted for products; transport costs for dispatch to the customer which have already been billed will not be refunded.
- 7.4 Products specially procured or manufactured for the customer are excluded from any possible return.

8. Projects and prototypes

- 8.1 The costs of samples and prototypes made by the supplier at the request of the customer will either be invoiced at cost or at a price agreed in the order confirmation or else offset against the workpieces manufactured on the basis of the order.
- 8.2 The supplier reserves the right to issue an invoice for projects and preliminary studies unless an order has been received within six months of the date on which they are submitted.
- 8.3 In the case of extensive developments and projects, a separate agreement will be drawn up defining the apportionment of the costs incurred.
- 8.4 Projects, preliminary studies, prototypes and models remain in all cases the property of the supplier and may not be released or made accessible to third parties without his written agreement. All intellectual property rights in projects, preliminary studies, prototypes and samples are vested in the supplier.

9. Tools

- 9.1 The tools and fixtures needed to manufacture products specifically for the customer remain the supplier's property in every case, subject, however, to the provisions of section 9.9. The customer may not ask for the tools to be released even if he has paid a share of the tool costs or the entire tool costs.
- 9.2 The tools will only be used to perform orders placed by the customer subject to section 9.8. Any other use requires a special agreement between the customer and the supplier.
- 9.3 Work to make new tools or modify existing tools will not begin until the agreed instalment has been paid (pursuant to section 3.2 and 4.4)
- 9.4 If the customer requires modifications during the order or subsequently, these will be billed additionally and a new delivery date fixed (pursuant to sections 2.4 and 4.3).
- 9.5 The supplier will keep the tools carefully for subsequent orders and maintain them for 5 years after the last delivery. The tools are insured for that period. On the expiry of 5 years since the last delivery, all obligation to store, maintain and insure the tools will lapse. This period may be extended at the customer's written request against payment of the costs entailed.
- 9.6 The supplier and the customer agree on the necessary manufacture of replacement tools and payment of the costs. If a special production quantity has been assured in advance in writing for a particular tool, the replacement tool will be made at the cost of the supplier, provided that the assured production quantity has not been reached.
- 9.7 In the event of damage (fire/storm), the supplier must be allowed sufficient time to remake the tools. Claims by the customer for compensation on the grounds that delivery is impossible or delayed will not be entertained.
- 9.8 If the customer fails to pay for delivery and services in the agreed manner, the supplier may make other use of the tools.

- 9.9 Where the tools are exceptionally the property of the customer, they must be identified as third party property. Costs of maintenance and any insurance will be borne by the customer. If the customer fails to comply with these contractual obligations, the supplier will have a right to retain these third party tools.
- 10. Accessories**
- 10.1 If the customer supplies accessories for press-fitting, injection, assembly, printing etc, an appropriate additional quantity of at least 5 % will be made available to the supplier.
- 10.2 Where accessories are not made available on time, the supplier will be released from his obligation to comply with the previously agreed lead-time.
- 10.3 The customer is responsible for the quality of the accessories delivered. The supplier does not accept any guarantee for possible resulting delivery delays and secondary costs or for the functional quality of the end-product if the accessories supplied prove to be unsuitable or of poor quality. Additional expenditure incurred by the supplier as a result of the inappropriate or poor quality of the accessories must be paid in full by the customer.
- 11. Samples/sample deliveries**
- 11.1 Only the production samples approved in writing by the customer and manufactured with the tool provided for this purpose will determine the dimensional accuracy and compliance with the written specifications. Only these samples are binding in respect of compliance with dimensions, performance, quality and colour for series manufacture.
- 11.2 The customer gives his authority for series manufacture by his written confirmation.
- 11.3 In the case of sample deliveries of standard articles, the supplier reserves the right to invoice the costs of goods and transport.
- 12. Product modifications**
- Modifications to the models, dimensions and design of standard products are reserved at all times. Colour differences or colour changes for non-colour-coded articles, in particular for containers, buckets and basins are reserved at all times.
- 13. Warranty/liability**
- 13.1 The supplier is liable pursuant to the following provisions for careful performance of the order, sections 11 and 12 or the specifications expressly agreed in writing being the determining factors in respect of the quality and execution of the delivered goods.
- 13.2 All indications, designations, information, data, tables and drawings in the catalogue (including, in particular, those in the technical section), and in other notifications made by the supplier are based on information and documents of the manufacturers, raw material suppliers, business partners of the supplier or on his long years of experience. They are understood specifically as simple indications or recommendations (general description of performance) and are not to be interpreted as guaranteed characteristics or as an assurance of particular properties by the supplier. The corresponding information does not release the customer or user of the products procured from the supplier from the performance of his own appropriate tests for the particular intended use and compliance with the statutory requirements in the destination country. All liability is declined for statements made in documents and other communications.
- 13.3 Where parts are manufactured on the basis of designs or drawings of the customer or supplier, the warranty will be confined to the execution in compliance with the documents agreed in writing or to the production sample approved by the customer, but will not cover the functional quality and suitability of the workpieces for the use intended by the customer.
- 13.4 If the customer wishes to have advice or suggestions for the choice of suitable materials or products, the supplier will provide the necessary services in good faith having regard to the current state of the art. However, the customer excludes all liability for such advisory services, subject to an express written assurance concerning the quality, material properties and/or suitability for the intended purpose. The customer must disclose the use of the products and materials concerned to the supplier and obtain a guarantee as to the potential uses and suitability of the proposed material. Where products are used for a purpose which is not appropriate having regard to the material properties, the customer alone will be liable. All claims for compensation against the supplier are excluded. **This applies in particular also to products which are intended for medical purposes or for use with foodstuffs.**
- 13.5 The chemical and mechanical strength of the material used is determined by the lists of strength factors and documents of the supplier's own sub-contractors. Such information is given for information only. The material properties may change under the specific conditions of use. The supplier declines all liability for any secondary damage resulting from the lack of chemical or mechanical resistance of the material used.
- 13.6 In the case of products made for the specific customer, the customer has sole responsibility for the correct engineering design of the products and for their practical suitability, including the materials, even if he was given advice by the supplier at the development stage.
- 13.7 The customer undertakes to release the supplier from the claims of third parties and the resulting costs in any legal proceedings and to take part in such legal proceedings at the request of the supplier.
- 14. Liability for material defects**
- 14.1 The statutory warranty period will apply. Complaints must be notified to the supplier in writing within 8 days of receipt of the goods. Thereafter, the goods will be deemed to have been approved. This period for complaint may be extended if quality checks are made after prior written agreement.
- 14.2 Reworking of delivered workpieces without the consent of the supplier and inappropriate treatment or storage will cause all warranty claims against the supplier to lapse.
- 14.3 Approval of the production samples pursuant to section 11 by the customer excludes any subsequent complaint insofar as the delivered workpieces are consistent with the approved samples.
- 14.4 If the complaint proves to be founded, the supplier will provide a replacement free of charge by repair or new delivery, or else will credit the invoiced sum or the value shortfall. More far-reaching claims of the customer, in particular for loss of profit or any type of secondary damage, are excluded. The complaint is justified if the goods concerned are demonstrably found to be defective or unusable because of poor material or defective execution or if the specifically assured properties agreed in writing are clearly not satisfied. If the complaint proves to be unjustified, the supplier is entitled to charge the costs incurred to the customer.
- 14.5 Goods replaced, or for which a refund has been made, become the property of the supplier and are to be returned to him at his request at his own expense.
- 14.6 The supplier in principle has no liability for transport damage. Transport damage must be notified without delay to the carrier.
- 15. Protected rights**
- Where workpieces are manufactured according to the ideas, proposals, models, drawings or samples of the customer, the customer gives a guarantee that no protected rights of third parties are infringed thereby. In any legal proceedings the customer will release the supplier from all claims of third parties and resulting costs and will participate in legal proceedings if the supplier asks him to do so.
- 16. Privacy Policy**
- The supplier agrees to process customer data with care and to comply with the provisions set out for data protection. As part of the processing of company/personal data required to conclude or execute a contract, the supplier may exchange data with or forward data to authorities and companies appointed to deal with recovery of debts or credit information, if the data is used for the purposes of checking credit rating or to validate claims.
- 17. Place of performance / Place of jurisdiction / Applicable law**
- The place of performance and the sole place of jurisdiction for all obligations arising out of the legal relationship between the customer and the supplier is the place where Semadeni has its registered office: **Ostermundigen/Bern**. The legal relationship will be governed by **Swiss law** (to the exclusion of the Convention on the international purchase of goods (CISG)).
- 18. Additional legal provisions**
- When selling on Semadeni products, the provisions of the U.S. Foreign Corrupt Practices Act (FCPA), the U.K. Bribery Act and other applicable local laws regarding bribery, corruption, money laundering etc. must be observed. Semadeni products must not be exported either direct or indirectly to Cuba, Iran, North Korea, Sudan or Syria, or supplied to persons or organisations that are involved in the impermissible development of ABC weapons or terrorist activities. Moreover, the export restrictions of Switzerland, the USA and the EU must be observed.
- Additional provisions for specific countries**
- 19. Deliveries to Switzerland and Liechtenstein**
- 19.1 Delivery**
- The delivery of standard products from the catalogue is made from the Ostermundigen works, without insurance and packaging, (EXW Ostermundigen). For a net goods value of CHF 500 or more per order and destination, delivery of standard products will be made free destination (CPT place of delivery Switzerland), inclusive of packaging.
- 19.2 Transport, packaging and processing**
- 19.2.1 In the case of orders for standard products from the catalogue with a net goods value of less than CHF 500, the supplier will invoice the following flat-rate charges for postage, freight, dispatch, packaging and processing costs: CHF 14.90.
- 19.2.2 Deliveries of production articles will be delivered EXW Ostermundigen, regardless of the order value. Postage, freight, dispatch, packaging and handling will be charged to the customer at cost.
- 19.3 Supplement for small invoices**
- If the net goods value of an order is less than CHF 50, a small invoice supplement of CHF 10 will be charged.
- 20. Deliveries to Germany and Austria**
- 20.1 Delivery**
- Delivery of standard products from the catalogue is made from the the Swiss central warehouse DDP duty paid. For orders with a net goods value of less than EUR 750, the supplier will invoice the following flat-rate charges:
- EUR 20 for goods worth under EUR 50
 - EUR 10 for goods worth between EUR 50 and 149.99
 - EUR 20 for goods worth between EUR 150 and EUR 499.99
 - EUR 25 for goods worth between EUR 500 and EUR 749.99
- Deliveries of production items are made irrespective of the order value according to the order confirmation.
- 21. Deliveries to other EU countries (EU countries excluding Germany/ Austria)**
- 21.1 Minimum order sum**
- The minimum order sum is EUR 350; orders below this value do not have to be accepted.
- 21.2 Delivery**
- Delivery is by individual arrangement.
- 21.3 Payment terms**
- Deliveries will be made against advance payment. If differing payment conditions are agreed, in the event of late payment warning charges of EUR 10 for each warning will be made and interest on arrears charged at the usual rate, even without prior warning, from the due date.
- 21.4 Documents**
- The cost of providing evidence of origin or legalization of export documents will be billed separately. The customer must ascertain for himself whether the products comply with any statutory provisions for importing or use in the country of destination. The supplier cannot be held liable for this.
- 22. Deliveries to non-EU countries (excluding Switzerland)**
- The provisions for export deliveries to non-EU countries will be made by individual agreement.