

GENERAL TERMS AND CONDITIONS - Status May 2008
CeramTec-ETEC GmbH

1. General Provisions

We shall render all deliveries and services exclusively on the basis of our General Terms and Conditions set forth below in their version applicable at the time of conclusion of the contract. The applicable version of our GTC can be inspected at our website www.etc-ceramics.com and downloaded, if requested. Upon conclusion of the contract the customer confirms to accept CeramTec-ETEC's General Terms and Conditions.

Our GTC shall also apply for future contractual relationships unless further and particularly more recent terms and conditions are expressly agreed. This shall also apply if we should not expressly make reference to them in connection with agreements made at a later date.

Terms and conditions of our business partners shall not be applicable unless confirmed by us in writing. Any order confirmation issued by us shall not be deemed to be an acceptance of customers' terms and conditions. The inoperativeness of a particular provision of our GTC does not affect the validity of the remaining provisions. In such case, both parties shall replace such inoperative provisions by effective ones.

2. Offers and Acceptance, Delivery Times

Our offers shall be considered to be without obligation and non-binding. Any declaration made by customers referring to acceptance or modification of offers or modifications of agreements shall not be binding unless those declarations are confirmed by us in writing within 14 calendar days after date of receipt.

Our product illustrations and information on size, weight and dimensions shall be considered as approximated values being typical in this industry unless it is expressly described as binding in our order confirmation.

Any information on delivery times and time of performance shall not be binding unless confirmed by us in writing.

3. Force Majeure

We shall not be liable for any delay in delivery and performance due to events of force majeure substantially complicating or rendering impossible delivery and performance, even if binding delivery times were previously agreed. Cases of force majeure shall also include, but not be limited to, shortage of product or energy, labor disputes, particularly legitimate lockouts, official action, traffic or operational hold-ups, or if sub-suppliers stop supplying us, don't supply in time or supply wrong products to us without our fault, as well as any other circumstances not imputable to us. In such cases we shall inform customers without delay of the default and its expected duration. Deadlines and delivery dates concerning performance shall be extended according to the duration of default plus a reasonable lead time.

4. Passing of Risk

The risk of deterioration or loss by accident, or also of confiscation of the goods shall pass over to the customer at the time goods are surrendered to the shipping agent from our warehouses. If the goods are shipped by a carrier, risk shall pass over to the customer irrespectively of the fact whether customer or we are liable to pay for the freight charges.

When assembly is made within the scope of a contract for services, the risk of loss or deterioration by accident will pass over to the customer already on completion of the work. The assertion of warranty claims shall not exclude the passing of the risk.

If delivery is delayed at the request of the customer, the risk of additional costs, loss or deterioration by accident will pass over to the customer for the entire period of the delay.

5. Warranty

Warranty shall be determined by agreements expressively made between the parties, and unless otherwise agreed, the statutory provisions shall apply. Warranty claims relating to a particular use or a particular suitability shall not be accepted unless agreed expressively in writing. Warranty period shall commence upon passing of the risk to the customer. The customer shall be obliged to inspect any goods delivered to him without delay, and to promptly notify the supplier in writing of any defects found, but at the latest within one week's time after the date of delivery. The customer is obliged to claim hidden defects immediately after detection, and at the latest before expiration of the warranty period.

In case of defectiveness relating to goods supplied or assembled by us, or to assembly work performed by us, the customer shall be obliged to give us the opportunity of inspection, and upon request to make the goods available to us at our expense without delay. We shall be entitled in our sole discretion to rectification of defects or replacement of defective goods. Unless subsequent performance is made by us within a reasonable period of time, the customer shall be entitled to set a reasonable time limit to enable subsequent performance, and once such additional respite has fruitlessly expired, he shall be entitled to reduction of purchase price or to withdrawal from the contract. We shall be entitled to refuse subsequent performance if it cannot be realized but by incurring excessive expenses. Costs shall be particularly considered to be excessive when our total expenditure for the scope of delivery and/or services, including rectification of defects, amounts to more than 120 % of the agreed amount of invoice.

As far as we have warranty claims towards a third party resulting from the defective delivery or services, our warranty, if admissible, shall be limited to the assignment of that warranty claim to the customer who is in possession of the defective goods.

Trials and sample shipments shall be excluded from any warranty claims.

6. Product Liability

We shall be liable for damages resulting from delivery of our products up to the limit of our product liability insurance (maximum indemnity coverage: € 5.000.000).

7. Liability for other damages

For further claims relating to damages from customers, we shall only accept liability for cases based on deliberation or gross negligent acting of our representatives and vicarious agents. In case of culpable breach of substantial contractual obligations other than those based on deliberation or gross negligent acting of our representatives and vicarious agents, our liability shall be limited to foreseeable direct damage and inherent to such contract. Any further liability, including malperformance and consequential damage, will not be assumed by us.

If not otherwise agreed, warranty claims and contractual claims from customers by reason of and in conjunction with the delivery of the goods become time-barred one year after passing of the risk. This shall not apply for those cases when the goods are used according to their usual or agreed application for a construction or building work, originating defects within the same. Any replacement deliveries or rectification of defects shall not result in a restart of the statutory period of limitation.

These limitations shall not apply in cases of injury of life, health or physical condition.

8. Competition Protection

The copyright of all literature and other documents, particularly of drawings and catalogues, shall remain with CeramTec-ETEC. The customer shall not be entitled to pass on CeramTec-ETEC documents to third parties without our express consent insofar as this is not required for completion of the contract. For every incidence of non-compliance, the customer shall be liable to pay a contractual penalty of 200% of the net purchase order value, or a minimum of 5.000,00 €, whereas CeramTec-ETEC's entitlement to claim higher damages shall remain unaffected.

9. Industrial Property Rights

For any technical proposals made by us we shall be solely entitled to file applications for patents. Should any property rights of third parties be infringed, the customer shall be liable to indemnify us from any claims, insofar as our services were performed according to specifications given previously, or when services were ordered according to his specifications.

10. Prices and Payments

Our prices are quoted in the statutory means of payment of the Federal Republic of Germany, terms are ex works, without cash discounts or any other deductions, not including the applicable V.A.T. Should any external costs or expenses included in the original price be increased unpredictably later than 3 months through no fault of our own, we shall be entitled to adapt our prices accordingly. Our minimum order value shall be EUR 300,00 net.

Payment shall become due in the moment of delivery to the customer (from our warehouses or to customer's warehouses) as far as no other agreements were made. This term of payment shall also apply if by mutual agreement assembly is to be made by CeramTec-ETEC, however, assembly start is postponed (particularly if this occurs upon customer's request). If the due date is exceeded by

more than 30 days, default shall commence automatically without the need for a reminder. In such cases, except as otherwise provided, we shall be entitled to claim default interest of 8% above the prime rate applicable from time to time. Moreover, the right of asserting further claims for any damages caused by delay will remain unaffected.

11. Off-set of payments

Customers shall not be entitled to set off payments against counterclaims of any kind unless such counterclaim was acknowledged by us or was established as final and absolute.

12. Security Interest

All goods delivered to customers shall remain our property until all current and future outstanding debts are settled, even if customers should require allocation of payments to a particular account or service.

Insofar as customers pass on our goods to third parties before payment is completely made, customer shall be liable to make them aware of the fact of lingering retention of right. Customers shall be liable to inform us of such resale in writing, naming the third party, within 14 days' time. In case of bonding our goods to other materials by the customer, he shall grant us the right of partial property for the new items until our invoices have been completely settled, namely the value of proportion between the invoice value of our goods and the invoice value of the other goods. Customer shall be entitled to sell the goods during normal course of business before full payment has been effected, as far as he is not in default, retaining his right of property, unless he has assigned his claim towards his new contractual partner in advance to a third party with our written consent. Should the customer sell any goods in which we have a co-ownership share acc. to paragraph 13a), he shall be liable to assign to us a proportional co-ownership share accordingly. Any claims from customers arising from resale of the retained goods shall be assigned to us at this stage in the amount of our invoice value or further outstanding debts against this customer, including V.A.T. and all ancillary rights. Irrespectively of third parties' rights, we shall be entitled to claim a chattel mortgage for objects of our customers' property being in our workshops for assembly or repair purposes.

If the customer grants down-payment to a third party on the existing claims which he has assigned partially or totally to us, the unpaid balance of such claim shall be considered to be assigned to us in the proportional amount of material delivered by us and having originated this claim.

Upon customer's request, the liens we are entitled to will be released insofar as their value (including V.A.T.) exceeds our claims by 20% or more.

13. Place of Performance and of Jurisdiction, Choice of Applicable Law

Place of performance and of jurisdiction shall be Siegburg. We reserve the right of suing the customer at his own place of jurisdiction. The contract shall be subject to the Law of Germany excluding the United Nations Convention on Contracts for the International Sales of Goods dtd. 11.04.1980 (CISG).

14. Data Protection

Data originating from business relationships will be recorded according to § 23 BDSG for processing purposes.