

# General Terms & Conditions.

## General Terms and Conditions of Trelleborg Sealing Profiles Germany GmbH

### I. General

1. The General Terms and Conditions (hereinafter also referred to as "T&Cs") of Trelleborg Sealing Profiles Germany GmbH (TRELLEBORG) set out below shall apply to all – also future – purchase contracts and other contracts which are concluded between TRELLEBORG and the contract partner (hereinafter referred to as "Customer") without TRELLEBORG having to refer to these on a case-by-case basis. They shall only apply towards entrepreneurs in terms of Section 14 BGB [Bürgerliches Gesetzbuch- German Civil Code], legal entities under public law and special assets of public law.
2. The T&Cs of TRELLEBORG are accessible at any time on the Internet at [www.trelleborg.com/sealingprofiles](http://www.trelleborg.com/sealingprofiles) and may be saved and printed by Customer in reproducible form. Any orders placed shall be deemed to be a consent to these T&Cs. Any general terms and conditions of Customer are hereby explicitly rejected. Any agreements deviating from the T&Cs of TRELLEBORG shall exclusively apply if – and insofar only for the individual case affected – they were confirmed by TRELLEBORG in writing as a supplement of these T&Cs. This confirmation requirement shall apply in any case, for example also if TRELLEBORG carries out the delivery to Customer without reservation whilst being aware of Customer's purchasing conditions.
3. According to the Bundesdatenschutzgesetz [Federal Data Protection Act], TRELLEBORG points out that possible personal data of Customer shall only be processed for the purpose of the execution of the contract and customer support. The data is not passed on to third parties beyond this purpose. By placing the order, Customer shall agree at the same time that the data is copied into an EDP file.

### II. Scope and Price

1. The subject matter, scope and price of the delivery shall be determined by TRELLEBORG by way of a written confirmation of order. Possible collateral agreements concluded verbally shall only become a subject matter of the contract in the event of a subsequent written confirmation of TRELLEBORG.
2. All offers shall be subject to confirmation. Technical changes and changes in form, colour and/or weight shall be reserved within reasonable limits.
3. Customer shall be bound by their order for a two-week period following the placing of the order. The order and its collateral agreement shall be deemed to have been accepted if they were confirmed by TRELLEBORG in writing.
4. Unless otherwise agreed, the prices shall be net prices excluding value added tax (VAT), packaging costs and freight.
5. If a factor relevant to the pricing – such as wages, energy costs and/or raw material costs – increases or decreases by more than 5% during the period from the conclusion of the contract to the delivery day, TRELLEBORG shall reserve the right to adjust the prices by the amount by which the acquisition or manufacturing costs of the contractual item have increased or decreased.
6. If TRELLEBORG manufactures goods according to drawings, samples, models or other documents submitted by Customer, Customer shall guarantee that no industrial property rights of third parties are violated. If TRELLEBORG is prohibited from manufacturing or delivering such items by a third party who makes reference to such industrial property rights, TRELLEBORG shall be entitled – without being obliged to examine the legal situation – to discontinue the manufacture and/or delivery and to claim compensation. Customer shall be obliged to promptly exempt TRELLEBORG from any associated third-party claims.
7. TRELLEBORG shall invoice Customer for test parts (moulds, mandrels, mouthpieces, etc.). TRELLEBORG shall invoice the tools required for the series production on a pro rata basis. Any test parts and tools shall remain the property of TRELLEBORG.
8. If TRELLEBORG renders development services on behalf of Customer and if a corresponding supply contract fails to be concluded, TRELLEBORG shall be entitled to invoice Customer for all the costs incurred for development services.
9. With regard to the quantity, metre or weight, TRELLEBORG shall be entitled to make excess or short deliveries of up to 5% of the quantity ordered, relating to both the entire quantity ordered and the individual partial deliveries and specific packaging and/or ring sizes. With regard to call-off orders, TRELLEBORG shall be entitled to procure material and raw materials for the entire order and, unless otherwise agreed upon, to manufacture the entire quantity ordered. In such a case, it is no longer possible to take into account change requests of Customer after the beginning of the manufacture, unless otherwise explicitly agreed upon.
10. TRELLEBORG shall be entitled to make partial deliveries. The scope of the partial delivery to be rendered results from the content of our delivery note.

### III. Delivery

1. The place of performance for the delivery shall be the location of the factory or warehouse of TRELLEBORG. Upon delivery to the carrier/forwarding company, the risk shall also pass to Customer if TRELLEBORG has assumed the transportation costs and possibly carries out the dispatch with their own vehicle; in such a case, TRELLEBORG shall determine the mode and way of dispatch as well as possibly the carrier. If the goods are ready for dispatch and if they are not dispatched for reasons for which TRELLEBORG is not responsible, the risk shall pass to Customer following the notification of the goods being ready for dispatch.
2. All delivery dates and delivery terms specified by TRELLEBORG shall always be deemed to be approximate dates and terms and shall not be binding upon TRELLEBORG, unless a delivery date has explicitly been agreed upon as binding upon conclusion of the contract.
3. Where possible, TRELLEBORG will comply with the delivery time agreed upon. It shall be extended by the duration of the circumstances for which TRELLEBORG is not responsible, such as force majeure, war, riots, operational breakdowns, strikes, lockouts, non-delivery by third parties, official sanctions or interferences, delays in the delivery of essential raw materials or difficulties in the energy supply, etc. TRELLEBORG shall also not bear responsibility for the circumstances set out above if they arise during a delay in performance already existing. Customer's statutory rights to withdraw shall remain unaffected.

### IV. Delay in Performance and Impossibility

1. For a delayed delivery to arise on the part of TRELLEBORG, a warning by Customer shall be required in any case.

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2. Without prejudice to Customer's right to withdraw in the event of defects, Customer may – if it becomes impossible for TRELLEBORG to render the service or in the event of a delay in performance – only withdraw from the contract in the event of an existing violation of duty for which TRELLEBORG is responsible.
3. Customer shall be obliged to declare within a reasonable period upon request of TRELLEBORG whether or not they withdraw from the contract due to the delayed delivery or whether or not they insist on the delivery being carried out. If Customer fails to make such declaration within a reasonable period set by TRELLEBORG, Customer shall no longer be entitled to reject the delivery or to withdraw from the contract and may also not assert any claims for compensation instead of the service.
4. Any change in the burden of proof to Customer's disadvantage shall not be linked to the above regulations.

## V. Withdrawal

TRELLEBORG shall be entitled to withdraw from the contract if

- a) following the conclusion of the contract, facts become known which justify the assumption that Customer will fail to properly render their contractual obligations and that the provision of the consideration is hereby jeopardised (in particular in the event of suspension of payments, an application for or the opening of insolvency proceedings, a bill of exchange or check being protested against, etc.) and Customer, following the setting of a reasonable period, also fails to provide either the consideration or the security,
- b) a force majeure event prevents the fulfilment of the obligations to delivery beyond a temporary basis,
- c) it becomes impossible for TRELLEBORG to fulfil the obligation to deliver as a consequence of a non-delivery of relevant raw materials, consumables or supplies by third parties for which TRELLEBORG is not responsible,
- d) customer fails to observe the provisions regarding the reservation of title (VI.).

## VI. Terms of Payment

1. The terms of payment agreed upon with Customer in detail shall apply.
2. Customer shall be in default if they fail to make their payment upon expiry of the payment term agreed upon. Without prejudice to this, Customer shall be in default by way of a warning. The default interest shall amount to 8 percentage points above the base interest rate. TRELLEBORG shall be entitled to assert a claim for a higher established damage caused by delay in performance.
3. Any discounts granted shall be entirely inapplicable in the event of a delayed payment. TRELLEBORG shall be entitled to demand advance payments of the invoice amounts at any time prior to dispatch, provided this appears necessary to TRELLEBORG.
4. Customer shall only be entitled to offset if their counter-claims have been legally established or have been recognised by TRELLEBORG.

## VII. Reservation of Title

1. TRELLEBORG shall reserve the title to the object of the sale until all payments arising from the business relationship with Customer have been received. Any check and bill of exchange shall only be provided on account of performance and shall only be deemed to be a receipt of payment to this effect following the final payment. In the event of any culpable behaviour of Customer contrary to the contract, in particular in the event of a delayed payment, TRELLEBORG shall be entitled to demand the return of the object of the sale and to take it back.
2. Customer shall be prohibited from pledging the goods supplied subject to reservation of title or from assigning them by way of collateral. In the event of attachment or any other third party interference, Customer shall promptly notify TRELLEBORG in writing so that TRELLEBORG is able to bring an action according to Section 771 ZPO [Zivilprozessordnung – Code of Civil Procedure]. Insofar as the third party is unable to reimburse TRELLEBORG for the judicial and extra-judicial costs arising from such an action, Customer shall be liable for any losses incurred.
3. Customer shall be entitled to resell the object of the sale in the ordinary course of business; however, they shall now assign to TRELLEBORG any claims amounting to the invoice sum of the respective object of the sale (incl. VAT) which arise to them from the resale against their purchasers or third parties, regardless of whether or not the object of the sale was resold without or following processing. Customer shall also continue to be entitled to collect the sum due following the assignment. The authorisation of TRELLEBORG to collect the sum due themselves shall remain unaffected. However, TRELLEBORG undertakes not to collect the sum due as long as Customer properly meets their payment obligations, does not default in payment and, in particular, as long as no application is filed for the opening of insolvency proceedings or Customer suspends their payments. In these cases, TRELLEBORG may request that Customer notifies TRELLEBORG of the claims assigned and their debtors, provides all information required for collection, submits the associated documentation and informs the debtors (third parties) about the assignment.
4. The processing and transformation of the object of the sale by Customer shall always be made for TRELLEBORG. If the object of the sale is processed with other items, which are not the property of TRELLEBORG, TRELLEBORG shall acquire co-ownership in the new object in the proportion of the value of the object of the sale to the other items processed at the time of processing. Incidentally, the same shall apply to the object arising from processing as applies to the object of the sale supplied under reservation of title.
5. If the goods supplied are inseparably mixed with other moveable property, which is not the property of TRELLEBORG, TRELLEBORG shall acquire co-ownership in the new object in the proportion of the value of the object of the sale to the other mixed items at the time of the mixing. If the objects are mixed in such a way that the object of Customer is considered to be the main object and if Customer acquires sole ownership according to Section 947 BGB, it shall be deemed to have been agreed upon that Customer transfers co-ownership to TRELLEBORG on a pro rata basis. The inseparable mixing of the goods shall be equivalent to them being combined. Customer shall keep in custody the sole ownership or co-ownership thus arising for TRELLEBORG. Incidentally, the same shall apply to the object created by mixing /connecting as applies to the object of the sale supplied under reservation of title.
6. To secure any claims of TRELLEBORG towards Customer, Customer shall also assign to TRELLEBORG those claims which arise to them towards third parties as a result of the object of the sale being connected with a plot of land.
7. If the realisable value of the securities granted to TRELLEBORG overall exceeds the claims of TRELLEBORG by more than 20%, TRELLEBORG shall be obliged and prepared – at the option of TRELLEBORG – to return to and/or release for Customer the securities granted, insofar as they exceed the limit of cover agreed upon.

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## VIII. Duty to Inspect/Warranty

1. The buyer shall be obliged to inspect the goods supplied for obvious defects which would be obvious to an average customer. Obvious defects shall also include the weight, number of pieces, quantity, dimension errors, easily noticeable errors in quality and easily noticeable damage to the goods as well as the delivery of another object. A note regarding such obvious defects shall be made in the freight documents upon delivery and TRELLEBORG shall be notified in writing no later than within a period of seven (7) calendar days, with regard to hidden defects no later than seven (7) days following the detection of the defect; this shall apply without prejudice to any earlier statutory notification period. This shall also apply to obvious defects if there is no duty to inspect and to give notice of defect pursuant to section 377 HGB [Handelsgesetzbuch – Commercial Code], provided that notice of such defects shall be given in writing no later than within two weeks following the receipt of the goods.

The goods for which a notice of defect was given must not be changed, used or processed without the consent of TRELLEBORG.

2. With regard to defects for which a notice of defect was given in good time, TRELLEBORG shall initially be liable – at their choice – for a removal of the defect or the delivery of an object free from defect (substitute delivery) as part of the subsequent performance. If TRELLEBORG is not prepared or unable to remove the defect or make a substitute delivery, in particular if such removal of defect or substitute delivery is delayed beyond a reasonable period or fails in any other way, Customer shall be entitled at their choice to request that the remuneration be reduced or that the contract be rescinded.
3. The prerequisite for TRELLEBORG to be liable for defects with regard to products made of caoutchouc or rubber is that Customer has met the requirements regarding the storage, cleaning and maintenance of DIN 7716.
4. If Customer receives a defective assembly instruction, TRELLEBORG shall only be obliged to provide an accurate assembly instruction, if the defect of the assembly instruction prevents proper assembly.
5. Any claims based on defects of Customer shall become statute-barred within one year from the beginning of the statutory period of limitation. The regulations of Sections 438 Para. 1 No. 2, 634 a Para. 1 No. 2 BGB shall remain unaffected. Any mandatory legal regulations regarding the period of limitation and the liability, such as liability arising from a guarantee assumed by TRELLEBORG on a case-by-case basis, the liability for intentional or grossly negligent actions, for the violation of life, body or health, the violation of essential contractual duties as well as the liability according to the Produkthaftungsgesetz [Product Liability Act] shall remain unaffected.
6. TRELLEBORG shall not be liable for any defects as a consequence of natural wear and tear, improper commissioning, operation and maintenance as well as unsuitable operating equipment. For defects caused by excessive workload and any building, weather or other influences following the passing of the risk, TRELLEBORG shall not be liable, insofar as the object of the sale is not suitable for use under the influences set out above according to the use intended by the contract or the customary use.
7. TRELLEBORG shall only be obliged to subsequent performance and/or to remove any defects with regard to the object of the sale, if Customer has met their payment obligations amounting to the value of the faultless services already rendered.
8. The regulations of Sections 478 and 479 BGB shall remain unaffected by the above conditions (Items 1 to 7).

## IX. Liability

1. If TRELLEBORG – for whatever legal reason – is obliged to pay compensation, TRELLEBORG shall only be liable, insofar as TRELLEBORG, their legal representatives, officers or other vicarious agents are guilty of intent, gross negligence or any violation of life, body or health. The liability without fault of TRELLEBORG arising from any guarantee possibly assumed on a case-by-case basis and according to the Produkthaftungsgesetz shall remain unaffected. Likewise, the liability of TRELLEBORG for the culpable violation of essential contractual duties shall remain unaffected; however, such liability shall be limited to the unforeseeable damage typical for the contract with the exception of Sentences 1 and 2. Any change in the burden of proof to the disadvantage of Customer shall not be linked to the above regulations.
2. Insofar as the liability of TRELLEBORG is excluded or limited, this shall also apply to the personal liability of the group of persons referred to in Item 1 Sentence 1.
  1. Satz 1 genannten Personenkreises.
3. The warranty rights of Customer according to Item VIII. shall remain unaffected.

## X. Place of Jurisdiction and Place of Performance

1. Insofar as Customer is a businessman, the exclusive place of performance – unless otherwise provided for in the confirmation of order – shall be D-63920 Großheubach. However, TRELLEBORG shall be entitled to also bring an action against Customer at their headquarters.
2. The contractual relationships with Customer shall only be subject to the law of the Federal Republic of Germany. The United Nations Convention on Contracts for the International Sale of Goods (UNCITRAL/ CISG) shall not apply.

(As of: 03/2012)