

General Terms and Conditions
of Trelleborg Sealing Profiles Germany GmbH

I. General

1. The following General Terms and Conditions (hereinafter also referred to as the GT&Cs) of Trelleborg Sealing Profiles Germany GmbH (TRELLEBORG) shall govern all current and future purchase and other contracts between TRELLEBORG and the party to the contract (hereinafter referred to as the Customer), without the necessity for TRELLEBORG to refer to them in each individual case. They only apply to companies as defined in § 14 German Civil Code (BGB), to juristic persons and estates under public law.
2. TRELLEBORG's GT&Cs can be viewed at any time on the Internet at www.trelleborg.com/sealingprofiles and can be saved and printed by the Customer in a form suitable for reproduction. Purchase orders once given shall constitute acceptance of these GT&Cs. Customer's own general terms and conditions are expressly rejected. Agreements contrary to TRELLEBORG's General Terms and Conditions apply solely if – and insofar only for the respective individual case – they have been confirmed by TRELLEBORG in writing as an addition to these GT&Cs. This confirmation requirement shall apply in every case, including if TRELLEBORG unreservedly deliver to the Customer although TRELLEBORG is aware of the Customer's conditions of purchase.
3. In accordance with the German Data Privacy Act, TRELLEBORG points out that any personal Customer data will be used exclusively for the purpose of contract and order processing as well as customer service. Beyond that purpose, such data will not be made available to third parties. By issuing the purchase contract the Customer also consents to the integration of such data in an EDP database.

II. Quantities and Pricing

1. The object, quantity and price of a shipment will be as specified in TRELLEBORG's written order acknowledgment. Any orally made side agreements, if not followed by a written confirmation by TRELLEBORG, shall not become part of the purchase contract.
2. All quotations are subject to change. TRELLEBORG reserves the right to make technical modifications as well as reasonable changes in terms of shape, colour and weight.
3. The Customer shall be bound by its order for a period of two weeks after placing an order. An order and its subsidiary agreements shall be deemed accepted if they have been confirmed in writing by TRELLEBORG.
4. Unless stipulated otherwise, the prices are net exclusive of value-added tax, packing and shipping charges.
5. If a factor such as wages, energy costs and/or the cost of raw materials increases or falls in the period between entering into the contract and the delivery date by more than 5%, TRELLEBORG reserves the right to adjust the prices by the amount by which the acquisition or manufacturing costs in respect of the delivery item have increased or fallen.
6. Whenever TRELLEBORG supplies Goods custom-manufactured on the basis of drawings, samples, models or other documentation provided by the Customer, the Customer warrants that they do not infringe on the intellectual property rights of third parties. If a third party, invoking such intellectual property rights prohibits TRELLEBORG from manufacturing and supplying such Goods, TRELLEBORG shall have the right – without being obligated to verify the legal situation – to discontinue the manufacture and supply of the Goods concerned and to present a claim for indemnification. The Customer agrees to promptly hold TRELLEBORG harmless of all related claims by the third parties concerned.
7. TRELLEBORG will charge the cost of test equipment (moulds, mandrels, die relieves etc.) to the Customer. The cost of tools required for volume production will be charged to the Customer on a prorated basis. All test equipment and tools shall remain the property of TRELLEBORG.
8. In case TRELLEBORG will provide development work by order of Customer and a respective supply contract will not be entered, TRELLEBORG shall have the right to charge all costs having spent in connection with the development work to Customer.
9. TRELLEBORG shall be allowed to make excess or short shipments in terms of quantity, measures or weights by up to 5% of the volume ordered, whether under purchase orders for the overall total or for partial deliveries, including certain packaging or ring sizes. In the case of blanket orders for on-call deliveries, TRELLEBORG shall have the right to procure the semi-finished and raw materials for the entire order and, unless stipulated otherwise, to manufacture the entire lot. In that case, again unless specifically agreed otherwise, Customer requests for changes can no longer be accommodated once production has begun.
10. TRELLEBORG shall have the right to make partial deliveries. The quantities supplied in a partial shipment shall be strictly as indicated in the bill of lading or docket.

III. Delivery

1. Delivery by TRELLEBORG shall be on an ex-factory or ex-warehouse basis. Upon release of the shipment to the forwarder or carrier all risks pass to the Customer, even if TRELLEBORG has prepaid the cost of transportation or uses its own vehicle for the transport. In the latter case, TRELLEBORG selects the shipping mode and routing and/or, as the case may be, the freight forwarder. If the Goods are ready to be shipped but are not forwarded for reasons beyond TRELLEBORG's responsibility and control, all risks pass to the Customer upon ready-to-ship notification.
2. All the collection dates and delivery periods stated by TRELLEBORG shall at all times apply merely as approximate dates and shall not have binding force for TRELLEBORG unless a delivery date was expressly agreed upon in writing with binding force upon entering into the contract.
3. To the extent possible, TRELLEBORG shall effect delivery by the agreed-upon date. However, delivery will be delayed by the length of time of circumstances beyond TRELLEBORG's control such as force majeure, war, unrest, operational disruptions, strikes, lockouts, non-delivery by third-party suppliers, official sanctions and intervention, delays in the delivery of key raw materials and energy supply difficulties etc., without prejudice to the Customer's legal right of withdrawal. The above-mentioned circumstances shall also not be deemed TRELLEBORG's responsibility if they occur during an existing default.

IV. Default and Impossibility

1. A reminder issued by the Customer shall be required in each case for the occurrence of default in delivery on our part.
2. Irrespective of the right of the Customer to withdraw in the event of defects the Customer may only withdraw from the contract in the event of a violation of an obligation that is TRELLEBORG's responsibility if the performance is impossible or in the event of default.
3. At TRELLEBORG's request, the Customer is obliged to state within a period of reasonable length whether or not they shall withdraw from the contract because of the default in performance or whether or not they insist on receiving the delivery. If the Customer does not make such a statement within the period of reasonable length TRELLEBORG has stated, the Customer shall no longer be entitled to reject the delivery or withdraw, and may not assert claims for compensation instead of the performance.
4. An amendment to the burden of proof to the detriment of the Customer is not associated with the above regulations.

V. Withdrawal

TRELLEBORG shall have the right to withdraw from the contract if

- a) after the signing of the contract, circumstances come to light which justify the assumption that the Customer will not properly abide by its contractual obligations, thus jeopardizing pecuniary consideration (in particular stoppage of payments, petition in or adjudication of bankruptcy, dishonoured cheques or notes, etc.) and even if given a reasonable grace period the Customer fails to make payment or to obtain a bank guarantee,

- b) force majeure prevents fulfilment of the delivery obligations on more than a temporary basis,
- c) TRELLEBORG is unable to fulfil its delivery obligation due to the unavailability of important raw, auxiliary and operating materials from third-party suppliers,
- d) the Customer fails to observe the provisions of the ownership reservation (VI).

VI. Payment Terms

1. The payment terms shall be as agreed with the Customer on a case-by-case basis.
2. The Customer will be defaulting if payment is not made by the stipulated due date. That notwithstanding, he will be in default upon a demand note. The interest on arrears shall be 8 percentage points above the base rate. TRELLEBORG shall be entitled to compensation for verified higher losses due to payment delays.
3. Granted discounts shall be null and void on delayed payments. TRELLEBORG shall at any time have the right, if deemed necessary, to insist on prepayment of the invoice amount prior to releasing the Goods for delivery.
4. The Customer shall have set-off rights only when its counter-claims are found legally valid, undisputed or accepted by TRELLEBORG.

VII. Reservation of Ownership

1. TRELLEBORG shall retain ownership rights on the Goods pending in full receipt of all payments under the business relationship with the Customer. Cheques and notes received shall only be viewed as performance but will not count as payments received until finally redeemed. If the Customer culpably contravenes the terms of the contract, in particular in the form of payment delays, TRELLEBORG shall have the right to demand and retrieve the Goods supplied.
2. The Customer shall not be permitted to pledge or to place in escrow any of the Goods supplied under the ownership reservation. The Customer shall immediately inform TRELLEBORG in writing of any liens or other intervention by third parties, enabling TRELLEBORG to take legal action in accordance with sec. 771 German Code of Civil Procedure (ZPO). If the third party is unable to reimburse TRELLEBORG for the court and out-of-court legal costs associated with the litigation, the Customer shall be held liable for the expenditures incurred.
3. The Customer shall have the right to resell the Goods in a proper business transaction, after assigning already now to TRELLEBORG, in the amount of the invoice total of the Goods concerned (including value-added tax), all receivables due him from his own customers or third parties out of such resale, regardless of whether the Goods were resold without or after any further processing. The Customer shall be authorized to collect such receivables even after the assignment. TRELLEBORG shall nevertheless retain the right to collect these receivables itself but agrees not to do so for as long as the Customer properly meets his payment obligations, does not default on payments, has not filed for bankruptcy proceedings or has not stopped making payments. In any such case, TRELLEBORG can require the Customer to reveal to TRELLEBORG the assigned receivables and the names of the debtors concerned, to provide all information and associated documentation needed for collecting the amounts, and to inform the debtors (third parties) of the assignment.
4. The processing or reshaping of the Goods by the Customer shall always take place on behalf of TRELLEBORG. If the Goods are processed in conjunction with other, non-TRELLEBORG materials, TRELLEBORG shall be the co-owner of the new product at the ratio of the value of the Goods relative to the other materials processed at the time of such processing. The products resulting from the processing shall be subject to the same provisions as the Goods supplied under the ownership reservation.
5. If the Goods supplied are inseparably combined with other, movable non-TRELLEBORG objects, TRELLEBORG shall co-own the new products at the ratio of the value of the Goods relative to the other combined materials at the time of the combination. If such combination takes place in a manner whereby the Customer's addition constitutes the main component and the Customer therefore acquires sole ownership of the new item pursuant to sec. 947 German Civil Code (BGB), it is agreed that the Customer cedes to TRELLEBORG correspondingly proportional co-ownership. The composition shall be equal to the inseparable combination of the Goods. The Customer shall ensure safekeeping of the resulting solely owned or co-owned property for TRELLEBORG. The products resulting from the combination or composition shall be subject to the same provisions as the Goods supplied under the ownership reservation.
6. To secure TRELLEBORG's receivables owed by the Customer, the Customer shall also assign to TRELLEBORG those receivables owed him by third parties by virtue of a combination of the Goods with real property.
7. If the realisable value of the securities granted to TRELLEBORG in total exceeds TRELLEBORG's claims by more than 20%, TRELLEBORG undertake and is willing at its discretion to return to the Customer or release the securities granted to TRELLEBORG insofar as they exceed the agreed cover.

VIII. Inspection Requirement / Warranty

1. The Customer shall be required to inspect the Goods supplied for any obvious deficiencies and defects which would be readily conspicuous to any average buyer. Obvious deficiencies also include the weight, quantity, volume, incorrect dimensions, easily visible quality flaws and easily detectable damage to the Goods, or the delivery of an incorrect product. Such conspicuous deficiencies shall be noted on the shipping papers upon receipt of the shipment but not later than 7 calendar days, concealed defects must be reported to TRELLEBORG in writing within 7 calendar days after their discovery notwithstanding any earlier legal reporting deadline. For obvious deficiencies this also applies when according to sec. 377 German Commercial Code (HGB) there is no inspection and reporting requirement, with the proviso that that they must be reported in writing not later than within two weeks after receipt of the Goods. Without TRELLEBORG's consent the deficient or defective Goods may not be modified, used or processed.
2. TRELLEBORG shall be liable for defects noted to TRELLEBORG in due time within the limits of make-up performance which, at TRELLEBORG's discretion, shall be by repairing the defects or by supplying defect-free Goods (replacement delivery). Should TRELLEBORG be unwilling or unable to remedy the defects or to supply replacements or, in particular, if such corrective action is delayed beyond a reasonable time limit or if in any other way the repair or replacement is unsuccessful, the Customer shall have the right, at his discretion, to demand a price reduction or the rescission of the contract.
3. TRELLEBORG's liability for defects on products made of caoutchouc or rubber shall be contingent on the Customer having met the storage, cleaning and maintenance requirements per DIN 7716.
4. If the Customer is given inadequate assembly instructions, TRELLEBORG shall be required to provide fault-free assembly instructions only in the event the faulty instructions conflict with proper assembly.
5. Warranty claims by the Customer shall lapse one year from the beginning of the legal statute of limitations, without prejudice to the provisions of §§ 438 Sec. 1 No. 2, 634 a Sec. 1 No. 2 German Civil Code (BGB), and without prejudice to compulsory statutory limitation and liability regulations relating for instance to liability under an individual warranty assumed by TRELLEBORG, liability for intentional or grossly negligent acts, for injury to life, body or health, for the violation of significant contractual duties, as well as liability under the Product Liability Act.
6. TRELLEBORG shall not be liable for defects resulting from normal wear and tear, improper operation or use or maintenance or unsuitable operating materials. TRELLEBORG shall not be liable for defects due to excessive loads nor for damage outside TRELLEBORG's responsibility due to building or weather conditions and other types of exposure following the passing of all risks if the Goods, intended for the contractually specified or normal use, are not suitable for the aforementioned exposure conditions.
7. TRELLEBORG shall only be bound to make-up performance or corrective action on any Goods if the Customer has met his payment obligations in the amount of the value of problem-free deliveries already made.

8. The above conditions (art. 1 to 7) are without prejudice to the provisions of §§ 478 and 479 German Civil Code (BGB).

IX. Liability

1. If, for any legal reason whatsoever, TRELLEBORG is considered liable for damages, TRELLEBORG shall accept such liability only in the event that TRELLEBORG, its legal representatives, management personnel or other vicarious agents are found guilty of intent, gross negligence or injury to life, body or health, without prejudice to TRELLEBORG's liability, independent of any blame, for a specific individual warranty under the Product Liability Act, and without prejudice to TRELLEBORG's liability in the event of material violations of duties, limited, however, with the exception of cases per clause 1 and 2, to predictable, typical losses. The above provisions do not change the burden of proof on the Customer.

2. To the extent that liability exemption or limitation applies to TRELLEBORG, it also applies to the personal liability of the persons mentioned under paragraph 1, clause 1 above.

3. The above provisions shall not affect the Customer's warranty-related rights per article VIII.

X. Jurisdiction and Place of Performance

1. If the Customer is a commercial business, and unless stated otherwise in the order acknowledgment, the exclusive place of performance shall be 74821 Mosbach. However, TRELLEBORG shall also have the right to bring action against the Customer at the place of his domicile.

2. The contractual relations with the Customer shall be governed exclusively by the laws of the Federal Republic of Germany. The UN Convention on International Purchasing Privileges (UNCITRAL/CISG) shall not apply.

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