



DIE FIETZ GRUPPE
Kunststofftechnik in Perfektion

GENERAL TERMS AND CONDITIONS

Fietz Thermoplast GmbH — Version 08/2020

I. Scope of Application

1. The following terms and conditions of sale, delivery and payment are part of all offers and contracts for the deliveries of goods and services by Fietz Thermoplast GmbH, both in an ongoing and future business relationship, even if they are not agreed upon separately again.
2. Deviating terms and conditions of the customer, which Fietz Thermoplast GmbH does not expressly acknowledge, are non-binding for them, even if Fietz Thermoplast GmbH does not expressly contradict them. The following conditions shall also apply if Fietz Thermoplast GmbH carries out the customer's order without reservation in the knowledge of conflicting and deviating conditions of the customer.

II. Offering and Conclusion of Contract

1. All offers by Fietz Thermoplast GmbH are subject to change and are non-binding, unless they are expressly marked as binding or contain certain acceptance periods. Orders by the customer are offers for the conclusion of a contract, which Fietz Thermoplast GmbH can accept within 14 days of receipt.
2. If the customer accepts the offer by Fietz Thermoplast GmbH in writing or by e-mail, the contract has been concluded. Acceptance by e-mail results in the conclusion of a contract if the e-mail is confirmed. This also applies if either the customer or Fietz Thermoplast GmbH confirms in writing or by e-mail the conclusion of the contract with reference to an offer or reproduction of the exact content of the service and the contractual partner does not object within 5 days, in writing or by a confirmed e-mail.
3. Information provided by Fietz Thermoplast GmbH on the subject matter of the delivery or service (e.g. weights, dimensions, use values, load-bearing capacity, tolerances and technical data), as well as representations of Fietz Thermoplast GmbH on this subject (e.g. drawings, illustrations), is only approximately relevant to the extent that usability for the contractually intended purpose does not require an exact agreement. These are not guaranteed characteristics, but rather descriptions or identifications of the delivery or service. Customary deviations and deviations as a result of legal regulations or which represent technical improvements and the replacement of components with equivalent parts are permissible provided they do not impair the usability for the contractually intended purpose.

III. Delivery/Deadline

1. Delivery dates or deadlines, which have not been expressly agreed as binding, are exclusively non-binding. If no delivery time has been agreed, delivery will take place "as soon as possible". The agreement

on the delivery times is made by Fietz Thermoplast GmbH as the vendor under the express reservation of timely delivery to itself and unhindered dispatch.

2. Delivery periods are binding if they have been agreed in writing or by confirmed e-mail.
3. For deliveries by Fietz Thermoplast GmbH, the place of performance is the operation of Fietz Thermoplast GmbH, in Radevormwald, as a loading point. The risk shall pass to the customer upon delivery to the forwarding agent. If Fietz Thermoplast GmbH takes over the delivery of the goods, which is fundamentally to be agreed in writing, whereby a confirmed e-mail is sufficient, the place of performance is the place of delivery of the goods named or agreed by the customer. In this case Fietz Thermoplast GmbH bears the risk of transport.
4. Delivery periods for Fietz Thermoplast GmbH begin only after full clarification of all execution details and require timely and proper fulfilment of the customer's obligations.

To the extent that the customer does not fulfil their contractual obligations of Fietz Thermoplast GmbH in this respect, the delivery and service period is extended, without prejudice to the possibility of Fietz Thermoplast GmbH claiming damages for the delay.

5. Fietz Thermoplast GmbH is not liable for impossibility of delivery or for delays in delivery, in as far as these are caused by force majeure or other events that were not foreseeable at the time of the conclusion of the contract (e.g. operational disturbances of any kind, difficulties in material procurement, transport delays, strikes, lawful lockout, lack of manpower, energy or raw materials, difficulties in obtaining necessary official permits, official measures, or the missing, incorrect or untimely delivery by suppliers or impairment due to pandemic), for which Fietz Thermoplast GmbH is not responsible. Fietz Thermoplast GmbH is released from its obligation to deliver for the duration of the respective obstacle. In the event of impossibility, it will be completely exempted. To the extent that such events for Fietz Thermoplast GmbH impair or prevent delivery or performance and such impairment is not merely of a temporary nature, Fietz Thermoplast GmbH shall be entitled to withdraw from the contract. In the event of temporary obstacles, the delivery or service deadlines are extended by the period of the hindrance plus a reasonable start-up period. Insofar as customers are unable to accept the delivery of goods or services as agreed due to these delays, they may withdraw from the contract by sending written notice to Fietz Thermoplast GmbH as soon as possible.
6. Obvious defects, transport damage, shortfalls or incorrect deliveries must be reported immediately, within a period of one week from delivery or receipt of the goods, by the customer by a confirmed e-

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mail or in writing. Disputed products must not be processed or installed. §§ 377 ff HGB/[Handelsgesetzbuch] (German Commercial Code) apply to dealings with commercial customers. The customer is obliged to check the goods immediately on arrival.

7. Fietz Thermoplast GmbH is entitled to make a partial delivery if the partial delivery can be used by the customer, the delivery of the remaining ordered goods is ensured and the customer does not incur considerable additional expenses or costs due to the partial delivery, unless Fietz Thermoplast GmbH agrees to bear the costs.
8. If the customer is in default with the call-off, acceptance, or collection of the goods, Fietz Thermoplast GmbH is entitled to demand compensation for the damage incurred. In the event of default on acceptance, the risk of accidental loss or accidental deterioration shall be transferred to the customer.
9. Insofar as the customer supplies materials for the purpose of processing, these are to be delivered in good time and in perfect condition at the customer's expense and risk, with an appropriate quantity surcharge of at least 5%. Fietz Thermoplast GmbH is not responsible for defects in the product due to the defective material supply.

IV. General Terms of Payment

1. The prices apply to the scope of products and services set out in the order confirmations. Additional or special services will be charged separately. The prices are in euros ex works plus customs, packaging, the currently applicable VAT and transport costs and with export deliveries plus additional fees and other public contributions.
2. The prices are packaged from the place of loading, unless otherwise agreed.
3. Insofar as the agreed prices and the list prices (framework contract prices) are decided by Fietz Thermoplast GmbH and the delivery is to take place only more than four months after the conclusion of the contract, the list prices of Fietz Thermoplast GmbH at the time of delivery shall apply.
4. The invoice amount must be paid to Fietz Thermoplast GmbH free of charge within 30 days of receipt of the goods and receipt of the invoice without deduction. Deviating payment terms must be agreed in writing or be confirmed by e-mail. Decisive for the timeliness of the payment is the receipt of the funds by Fietz Thermoplast GmbH.
5. Payments should, where possible, be made by electronic means of transmission.

Any rebates or discounts granted shall be waived if the customer is in default of payment of the invoice submitted by Fietz Thermoplast GmbH, or in the case of the application and/or the opening of insolvency proceedings on the assets of the customer.

6. Invoices of Fietz Thermoplast GmbH are deemed to be accepted if no written objection is made within 30 days of the invoice date. The invoice shall be transmitted by electronic transmission.
7. If the customer is in arrears with their payment obligation, they must pay the statutory default interest (5% above the base interest rate, in the case of full merchants 9% above the base interest rate). Fietz Thermoplast GmbH reserves the right to prove and assert a higher level of damage caused by delay.
8. If the customer is in default of payment or if their economic situation deteriorates significantly, Fietz Thermoplast GmbH is entitled – regardless of any agreed payment period – to demand immediate payment for goods already delivered from all contracts concluded with the customer or to demand advance payment or security with regard to goods not yet delivered.

Furthermore, Fietz Thermoplast GmbH is entitled in this case to refuse further performance of the contract until immediate payment or advance payment is made or a security is provided. If the customer does not comply with the request for advance payment or provision of a security within a period of 7 calendar days, Fietz Thermoplast GmbH is entitled to withdraw from the contract. The same applies if circumstances existed before or at the time of conclusion of the contract, on the basis of which the creditworthiness of the customer did not exist at the time of conclusion of the contract, but Fietz Thermoplast GmbH became aware of these circumstances only after the conclusion of the contract.

9. The off-set of claims by the customer against claims by Fietz Thermoplast GmbH against the customer is only permissible to the extent that these have been recognised by Fietz Thermoplast GmbH and are due for payment or have been legally established. The customer shall only be entitled to exercise a retention right insofar as their counter-claim is based on the same legal relationship.

V. Warranty

1. In the commercial business transaction with the customer, the provisions of §§ 377, 378 of the German Commercial Code (HGB) apply, with the proviso that the customer must notify all recognisable defects, missing quantities or incorrect deliveries without delay, i.e. at the latest within 7 days of delivery, in any case, but before processing or installing the goods, either in writing or by e-mail, the receipt of which is confirmed.



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2. If the customer complains of a defect in due time, Fietz Thermoplast GmbH must be given the opportunity to verify the timeliness and validity of the complaint. In the event of recognisable defects in the goods, including in the case of quantity complaints, the reason for the complaint or complaint must be specified precisely. Fietz Thermoplast GmbH shall then fulfil the contract duly by rectification or replacement service in the event of a legitimate complaint. If the subsequent performance has failed, the customer can demand a reduction in the purchase price (discount) or claim the withdrawal from the contract at its discretion. The subsequent performance shall be deemed to have failed after the second unsuccessful attempt, unless further attempts at rectification are appropriate and reasonable for the customer on the basis of the subject matter of the contract.

The customer can only make claims for damages due to defects under the following conditions if the supplementary performance has failed. Claims for damages shall be limited, to the extent permitted by law, to liability in the event of intent or gross negligence.

3. The warranty period of Fietz Thermoplast GmbH towards the customer, dated from acceptance by the customer, is one year. This does not apply if this product has been modified or has not been used in accordance with the contract or if it is a consumable part, the wear of which precisely reflects the planned use of the product. In these cases, warranty is only given that the part produced in each case is subject to the usual natural wear and tear and to the wear and tear stipulated in the contract.
4. Fietz Thermoplast GmbH shall only be liable for the guaranteed properties of the goods if this guaranteed property has been made the subject matter of the contract in writing.
5. In the event of defects in components from other manufacturers that Fietz Thermoplast GmbH cannot remedy for licensing or factual reasons, Fietz Thermoplast GmbH shall, at its option, assert its warranty claims against the manufacturers and suppliers for customer invoices or assign them to the customer. Warranty claims against Fietz Thermoplast GmbH only exist for defects of this kind, provided the other pre-requirements are met and in accordance with these General Terms and Conditions, if the legal assertion of the aforementioned claims against the manufacturer or suppliers was unsuccessful or there is no prospect of success, for example due to insolvency. For the duration of the dispute, the limitation period of the relevant warranty claims of the customer against Fietz Thermoplast GmbH is blocked.
6. The warranty is null and void if the customer modifies the delivery item or has it modified by a third party without the consent of Fietz Thermoplast GmbH and if rectification of the defect is therefore impossible or unreasonable. In any case, the customer shall bear the

additional costs incurred as a result of the change in rectification of defects.

7. If Fietz Thermoplast GmbH makes an agreement with the customer for the delivery of used goods, any warranty for material defects is excluded.
8. Warranty claims by the customer with respect to Fietz Thermoplast GmbH are subject to a prohibition on assignment.

VI. Liability for Compensation on the Grounds of Culpability

1. The liability of Fietz Thermoplast GmbH for damages, regardless of the legal reason, due to impossibility, delay, defective or incorrect delivery, breach of contract, breach of obligations in contract negotiations and tort, to the extent that fault is involved, is limited in accordance with these General Terms and Conditions.
2. Claims for damages by the customer due to culpable conduct by Fietz Thermoplast GmbH prior to the conclusion of the contract or breach of minor contractual obligations are excluded, unless they are based on intent or gross negligence on the part of a legal representative of Fietz Thermoplast GmbH or a vicarious agent, whose actions would have to be imputed to Fietz Thermoplast GmbH. The same applies to claims arising from tort and claims for compensation for futile expenses instead of performance.
3. The above disclaimers and limitations apply to the same extent in favour of the executive bodies, legal representatives, employees and other vicarious agents of Fietz Thermoplast GmbH.
4. Insofar as Fietz Thermoplast GmbH provides technical information or acts as an adviser and this information and consultations do not form part of the contractually agreed service owed by Fietz Thermoplast GmbH, this is provided free of charge and to the exclusion of any liability.
5. The limitations of this section do not apply to the liability of Fietz Thermoplast GmbH due to injury to life, body or health.

VII. Retention of Title

1. The delivered goods remain the property of Fietz Thermoplast GmbH until full payment of the purchase price and repayment, all claims arising from the business relationship with the respective customer and any outstanding claims in connection with the delivered goods as reserved goods. The posting of individual receivables in a current account or in a balance sheet and their recognition does not cancel the retention of title.



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The customer is only entitled to resell, use or install the reserved goods in the normal course of regular business. The customer is not entitled to make any other disposition of the goods subject to retention of title, in particular pledging or transfer of security. Without the express consent of Fietz Thermoplast GmbH, the customer is not entitled to other dispositions on the reserved goods. Fietz Thermoplast GmbH authorises the customer to collect claims from the re-use of the goods subject to revocation. Fietz Thermoplast GmbH will not exercise its own confiscation authority as long as the customer meets their payment obligations.

2. Upon suspension of payments, the submission or approval of an insolvency application, the customer's right to resell, use, or install the goods subject to retention of title and the authorisation to collect assigned claims is forfeited.

VIII. Return of Goods and Recovery

1. If the customer does not or does not fully fulfil their obligations under this contract or if a significant deterioration of their economic conditions occurs or becomes known subsequently, the customer shall immediately disclose, at the request of Fietz Thermoplast GmbH, what has happened to the goods in detail, whether and, if necessary, where the goods are still available and, if necessary, to what extent there are any claims assigned to whom and to make available to Fietz Thermoplast GmbH all documents required for examination.

In this case, Fietz Thermoplast GmbH is entitled to take direct ownership and recover the goods subject to retention of title, whereby Fietz Thermoplast GmbH is bound by the statutory provisions on the sale of deposits.

IX. Treatment of Moulds (injection moulds)

1. Insofar as the customer has provided moulds for the production of the products of Fietz Thermoplast GmbH, the customer remains the owner of these moulds. However, it is obliged to make the moulds available to Fietz Thermoplast GmbH free of charge for the duration of the current order.

In the case of moulds provided by the customer as a loan, the liability of Fietz Thermoplast GmbH regarding the storage and care of the moulds is limited to care in its own activities. Fietz Thermoplast GmbH has a right of retention for the moulds if the customer does not fulfil their obligations to Fietz Thermoplast GmbH. The risk of accidental damage or loss shall be borne by the customer if they have previously been asked by Fietz Thermoplast GmbH to accept the moulds belonging to the customer with a deadline for doing so. Fietz

Thermoplast GmbH assumes no liability for the function, warranty and suitability of these moulds.

2. If the customer commissions Fietz Thermoplast GmbH either by itself or by third parties to have the moulds manufactured that are necessary for the production of the product, Fietz Thermoplast GmbH assumes the warranty for this mould within the scope of a predetermined number of castings or pieces as the output quantity. Once this quantity has been reached, the warranty expires. Repairs, maintenance or even a replacement mould shall be shown to the customer and offered for commissioning. The transfer of ownership to the customer takes place upon full payment for the mould. The moulds are only used for the orders of this customer as long as the customer meets their payment and acceptance obligations. Irrespective of the legal right of the customer to surrender and the lifespan of the moulds, Fietz Thermoplast GmbH is entitled to exclusive ownership of the moulds until the termination of the contract. It shall identify the moulds as third-party property and insure them at the customer's expense at the customer's request.
3. Insofar as there are no other contractual agreements with the customer, Fietz Thermoplast GmbH undertakes to store the moulds for a period of two years after the delivery of the last ordered part. At the end of this period, the tool will be returned to the customer, scrapped with their consent or will continue to be stored for a storage fee.
4. The moulds shall be stored and insured professionally by Fietz Thermoplast GmbH.
5. Pro-rata mould costs are only a contribution to their production costs. No transfer of ownership takes place. The mould remains completely in the possession of Fietz Thermoplast GmbH.

X. Industrial Property Rights

1. Fietz Thermoplast GmbH reserves the right of ownership and/or copyright to all offers and cost estimates made by them, as well as drawings, illustrations, images, calculations, prospectuses, catalogues, models, tools and other documents and aids made available to the customer. Without the express consent of Fietz Thermoplast GmbH, the customer is not permitted to make these objects accessible to third parties, neither as such nor with regard to their contents, to make them known or to let them be used or reproduced by third parties. At the request of Fietz Thermoplast GmbH, they must return this counterpart to Fietz Thermoplast GmbH and destroy any copies made if they are no longer needed by them in the proper course of business. This also applies to other data carriers.



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2. If Fietz Thermoplast GmbH has to deliver according to drawings, models, samples or using provided parts of the customer, the customer is responsible for ensuring that the industrial property rights of third parties in the country of destination of the goods are not infringed. The customer shall inform Fietz Thermoplast GmbH of its rights that it is aware of. In addition, the customer shall indemnify Fietz Thermoplast GmbH from claims by third parties arising from the violation of industrial property rights and compensate them for the damage incurred. If Fietz Thermoplast GmbH is prohibited from supplying and manufacturing on the basis of a third party's own industrial property rights, Fietz Thermoplast GmbH is entitled to discontinue the work until the customer or the third party has clarified the matter. If, due to this delay, the continuation of the order should no longer be reasonable for Fietz Thermoplast GmbH, it is entitled to withdraw from the contract and to claim damages.
3. Fietz Thermoplast GmbH is responsible for copyright and, if necessary, industrial property rights, in particular all rights of use and exploitation of the models, moulds and devices, designs and drawings commissioned by it or by third parties.

XI. Data Protection

1. Fietz Thermoplast GmbH processes and stores customer data to the extent necessary to maintain business relationships and to process contracts with the customer.
2. Fietz Thermoplast GmbH complies with all requirements of the Federal Data Protection Act/[Bundesdatenschutzgesetz], the provisions of state data protection legislation and the General Data Protection Regulation (GDPR). For this purpose, the customer shall receive the information sheet "Data Protection Policy" on request. The Fietz group's data protection policy can also be found on the Internet presence "www.fietz.com". It also contains information on the controller within the meaning of the General Data Protection Regulation, information on the nature of the data processed, the purpose of the processing and the relevant legal bases. Furthermore, security measures, as well as all descriptions of customer rights, are presented there.
3. Taking into account the above regulations, the customer agrees to the processing and storage of their data.

XII. Supplementary Conditions for Factoring

1. Where Fietz Thermoplast GmbH has assigned claims against a customer to Deutsche Factoring Bank GmbH & Co.KG, it marks the invoice with a corresponding note of assignment.

2. All of the above General Terms and Conditions shall apply unchanged, even in the event of assignment to the aforementioned factoring company.

Fietz Thermoplast GmbH is entitled to assign the claims against the respective customer to a factoring company.

3. All payments are to be made where the invoice is marked with debt-discharging effect exclusively to the Deutsche Factoring Bank GmbH & Co.KG, Kreuzerkamp 7, 40878 Ratingen, Germany, to which Fietz Thermoplast GmbH has assigned the claims marked on the respective invoices.
4. The rights arising from the reserved property in accordance with these General Terms and Conditions were also assigned to Deutsche Factoring Bank GmbH & Co.KG in the respective marked invoices.

XIII. Final Provisions

1. Where permitted, the agreed place of jurisdiction shall be the District Court of Wipperfürth and, depending on the value of the property, the Regional Court of Cologne.
2. The law of the Federal Republic of Germany shall apply. The United Nations Convention on Contracts for the International Sale of Goods of 11.04.1980 (CISG) is not applicable.
3. The contract is agreed in writing, which is also the case for the amendment of the written form clause.

In the event that any part of these terms and conditions is or becomes ineffective, the entire General Terms and Conditions shall not be ineffective. On the contrary, the parties are required to make an effective provision corresponding to the meaning and purpose of the General Terms and Conditions.