

1. Formation of Contract

Contracts for delivery shall be deemed to have been entered into only when the order has been accepted in writing by METAWELL.

Unless specifically agreed in writing by METAWELL these conditions, together with the conditions set forth in the acceptance of order, shall be the terms and conditions governing the contract and shall override any representations, promises, terms and conditions whatsoever stipulated, incorporated or referred to by either party and no terms and conditions appearing on a Purchaser's order or otherwise shall be binding on METAWELL.

Receipt by the Purchaser of the order confirmation without prompt objection to the terms and conditions therein and herein set forth constitute acceptance by the Purchaser of such terms and conditions and all details of such acknowledgment. Acceptance of, or payments for, the goods shall likewise be deemed to constitute consent.

All offers are made without obligation

2. Specifications and Quantity

Unless otherwise agreed the German „DIN“ standards shall apply. METAWELL's goods are fabricated pertaining to commercial customs with respect to tolerance in measurements, weights and quality gauges arising out of the fabrication process. The delivery of a quantity or number of pieces of up to 10% in excess of, or less than, the quantity or number ordered shall be permissible.

3. Prices

METAWELL's prices are based on calculation at the time the order is accepted. In case of any changes in the price basis, particularly if they are caused by changes in the raw material price, import or export duties and taxes, the parity to the Deutsche Mark (as far as prices in foreign currency are given) or other important price elements METAWELL reserves the right to change METAWELL's prices accordingly for deliveries which are due later than 4 months after the date of the order confirmation.

4. Risk

All risks shall pass to the Purchaser at the latest when the goods leave METAWELL's works and/or, in accordance with the contract, are placed at the disposal of the Purchaser. If, however, a clause of „Incoterms“ in force on the date of the formation of the contract is agreed upon, the risk shall pass in accordance with such clause. Where METAWELL bears the risk METAWELL's liability shall be limited to the refund of any sums and/or the return of any materials the Purchaser may have paid and/or supplied and shall not extend to the replacement of goods. Claims because of damage in transit have to be lodged by the Purchaser directly to the transportation agency with the terms especially provided therefor.

5. Inspection and Acceptance Tests

Inspection and acceptance tests, if any, shall be carried out in METAWELL's works by an internationally recognized inspection company or by an official inspector of a government body or public authority. If the Purchaser fails to have the agreed inspection carried out and/or to be represented at the agreed acceptance tests, the goods shall be deemed to have been manufactured in accordance with the contract.

6. Delivery

The time of delivery stated shall be deemed to be an approximate indication only. It shall run from the date of the acceptance of order, however, not before all questions relating to the performance of the contract have been settled. The date on which the completed goods are first held at the Purchaser's disposal in METAWELL's works shall be deemed to be the date of delivery.

Should, notwithstanding the foregoing, a fixed period for delivery have been agreed, METAWELL shall only be in default after the Purchaser has sent METAWELL a reminder which fixes an appropriate period of time for delivery. After the lapse of a reasonable extension granted to METAWELL the Purchaser may cancel the contract.

Claims for damages by the Purchaser due to delay or impossibility - except in the case of intentional or gross negligence - shall be excluded. Partial delivery shall be permitted.

If METAWELL or its own suppliers are impeded in the execution of their obligations by any circumstances beyond METAWELL's reasonable control, including but not limited to war, labour conflicts, unforeseeable production, traffic or shipping disturbances, shortages of labour, utilities or raw materials or supplies, acts of government, and any other kind of force majeure. METAWELL is free from its obligations for the duration of such disturbances and to the extent of their effect. If a hindrance excused by this clause lasts longer than 2 months, either party may terminate the contract with respect to the unexecuted portion. Claims for damages because of delays in delivery, partial or non-delivery, in this respect are excluded.

7. Packing Material

All packing material remains METAWELL's property and has to be returned at the Purchaser's cost when nothing else has been agreed upon.

8. Quality and Quantity Complaints, Liability

Claims because of material defects, false delivery and different quantities will be considered only if raised in writing within 14 days after receipt of the goods. Latent defects have to be notified in writing to METAWELL immediately upon discovery but not later than 2 months after receipt of the goods.

It shall be a prerequisite of any claim based on defectiveness of the goods that METAWELL be able to check the goods after the detection of the defect and before such goods have undergone any further alteration.

If a claim is justified and properly notified METAWELL may elect either

- (1) to remove the defect at no expense to the Purchaser or
- (2) against return of the defective goods including any machining scrap to supply goods complying with the contract, or
- (3) to repay to the Purchaser the purchase price of the returned material.

If METAWELL refuses to remedy a defect or to replace defective goods or fails to re-remedy a defect or to replace defective goods within a reasonable period of time or if the goods replaced or repaired are defective again, the Purchaser shall have the right to annul the contract or to reduce the purchase price. All warranty claims are subject to a limitation period of 6 months computed from delivery. The

Purchaser shall not be entitled to derive from defective partial deliveries any right in respect to the remainder of the deliveries.

Claims for damages shall be excluded except when METAWELL has caused damage wilfully or by gross negligence.

9. Payment

Payments due may be retained or set off against Purchaser's claims only if such claims have become res judicata or have been expressly acknowledged by METAWELL in writing.

If the Purchaser fails to make payment in accordance with the contract, METAWELL shall be entitled to interest on any amount due, and the rate of interest shall be two percent (2%) above the discount rate of the Deutsche Bundesbank (German Federal Bank) from the date on which such sum became due.

In the case of non-compliance with the agreed payment conditions (or other causes which may adversely affect the Purchaser's financial position) all outstanding debts become immediately due. In these cases METAWELL additionally may require the Purchaser to make payment or to give security before METAWELL proceeds with delivery and METAWELL shall also be entitled to set a reasonable period during which the Purchaser should make payment and, if he fails to make payment within the said period, METAWELL shall be entitled either to terminate the contract or to recover damages for non-performance of the contract.

10. Transfer of Property

Property of the goods supplied, even if these have subsequently undergone a partial or complete process of manufacture, shall not pass to the Purchaser until payment and/or settlement of all claims of METAWELL against the Purchaser has been effected.

Wherever processing or mixing occurs, the Purchaser automatically passes to METAWELL the title to a portion of the new goods corresponding to the ratio of the purchase price of METAWELL's goods in relation to the other substances.

The Purchaser will keep the goods in his safe keeping without charge.

As long as the Purchaser fulfills his obligations towards METAWELL, the Purchaser is entitled to resell the goods supplied by METAWELL or the goods newly created by the processing or mixing at any time in the normal course of his business. He hereby assigns to METAWELL by way of security an amount corresponding to METAWELL's ownership of the goods sold. The Purchaser may not encumber the goods delivered or transfer title to the goods for any security purposes.

Where the value of the security represented by the goods in which METAWELL retains the property exceeds the value of METAWELL's claims against the Purchaser by more than 20%, METAWELL shall be obliged, upon request by the Purchaser, to transfer to the Purchaser title so many of the goods as are equivalent to the excess value.

Should the Purchaser not entirely fulfill his payment obligations or should an event of insolvency occur on the Purchaser's side, METAWELL shall be entitled to inspect the premises where the goods are stored and to retain or to seize the goods.

The Purchaser shall immediately inform METAWELL if any third party takes possession of or claims any rights to any goods in which METAWELL retains the property or in respect of which METAWELL has other rights or interest.

If the law of the country where the goods supplied are situated does not permit the retention of the property in the goods by METAWELL but permits to retain other rights securing METAWELL's interest in the goods, METAWELL shall be entitled to the benefit of all such other rights. The Purchaser shall cooperate in all measures necessary to give effect to METAWELL's retention of the property in the goods or to establish the other rights available to METAWELL securing METAWELL's interest in the goods.

11. Technical Advice

Technical advice, data or information on the possibilities of application or converting METAWELL's products as well as all other information in this connection will be given by METAWELL or METAWELL's representatives according to METAWELL's best knowledge, but without any responsibility on METAWELL's side.

12. Dies, Samples, Industrial Property Rights

Any dies, tools and other equipment, which METAWELL makes or obtains in order to produce the goods shall, unless otherwise agreed and irrespective of eventual copyrights of the Purchaser, remain the property of METAWELL and any amount paid by the Purchaser in relation to them shall be deemed to be a charge in respect of their use. Three years after the last delivery METAWELL may, at its option, scrap such dies, tools and other equipment.

Samples shall be deemed to be only an approximate basis for the delivery.

If METAWELL supplies according to data, designs or drawings of the Purchaser, he shall indemnify METAWELL against claims (if any) in respect of infringements of patents or other rights of third parties.

13. Applicable Law, Severability

The contract and the rights and obligations of the parties thereto shall be governed by German law. The application of the uniform laws on the International Sale of Goods and on the Formation of Contracts for the International Sale of goods of 1 July, 1964 shall be excluded.

Trade terms shall be interpreted according to the „Incoterms“ (International Rules for the Interpretation of Trade Terms of the International Chamber of Commerce) in their latest version.

METAWELL processes Purchaser's data pursuant to the German Federal Data Protection Act.

Should any clause in these General Conditions be or become invalid the invalidity shall not affect the validity of the remaining clauses or, the remaining part of the clause concerned. The parties shall agree on a valid provision which conforms as far as possible to the economic purpose of the invalid clause.

14. Place of Performance and Jurisdiction

Place of performance for delivery and for payments shall be Neuburg/Donau.

Venue for both parties shall be Neuburg/Donau. METAWELL, however, shall have the right to sue the Purchaser at the place of his registered or principal office or before the courts in the capital of the country of destination of the goods. The same shall also apply to claims arising from cheques and drafts.