

General terms and conditions of business and delivery

I. General

For the company PolyMerge GmbH (hereinafter referred to as "PolyMerge" or the "Supplier"), the following terms and conditions apply exclusively to all delivery and service processes for entrepreneurs within the meaning of § 14 German Civil Code. Changes and additions to these conditions are only effective with the written confirmation of GL PolyMerge. The purchaser's terms of purchase or delivery are hereby expressly rejected.

II. Offer and the conclusion of a contract

1. All deliveries and services are based on these conditions - as well as any separate written contractual agreements - and these also apply for all future legal transactions. A contract is established - if not specifically agreed otherwise - when the Supplier confirms the order in writing. Unless otherwise agreed upon in writing, a contract is reached by means of order acceptance (written order confirmation).
2. The data listed in the supplier's offer and the documents belonging to the offer such as brochures, illustrations, drawings, plans, calculation tables, dimensions and weights are only approximate. The supplier reserves ownership and copyright on all offer documents of a physical and non-physical nature (including in electronic form) such as illustrations, cost estimates, samples and the like. They may not be made accessible to third parties or be used for advertising purposes without the written consent of PolyMerge and must be returned immediately upon request. Construction drawings are not submitted. The supplier is entitled to deviate from its offers and order confirmations, as well as the accompanying drawings and descriptions, which are due to manufacturing considerations or improvements, experience and progress in technology, without the consent of the purchaser, provided that the supplier does not charge any additional costs.
3. Ancillary agreements and modifications shall not be valid unless these have been confirmed in writing by the Supplier.

III. Price, payment and cancellation costs

1. The prices are in euros plus VAT at the statutory rate. In the absence of any other special agreement, prices apply ex-works, excluding packaging, assembling and commissioning. The packaging supplied will be invoiced separately at cost price and will not be taken back. Protective devices will also be delivered if this is agreed.
2. Payments are to be made without deduction and are only deemed to have been made when they are credited to the supplier's bank accounts. If the payment target is exceeded, the purchaser automatically falls into arrears without the need for a reminder. The open amount is subject to interest of 8 percentage points above the base rate from the start of default. POLYMERGE is entitled to prove higher interest losses. Irrespective of other claims for compensation, the supplier is entitled to withhold its own contractual obligations in the event of payment arrears that are not due to its own actions or omissions until the arrears payments are affected.
3. If there are more than four months between the conclusion of the contract and the agreed delivery date, POLYMERGE can unilaterally set a price increase if the supplier's purchase prices for the materials and services required for the contractual service have increased during this period. PolyMerge must disclose the origin calculation and the calculation based on the increased purchase prices to the purchaser. However, the cost increase may not exceed 10% of the original net sales price of the service plus the statutory value added tax. In this case, the purchaser is not entitled to withdraw from the contract.
4. Purchasers shall have the right to withhold payments or offset payments with counterclaims only to the extent that such counterclaims are undisputed and have been established as final and absolute. Claims against PolyMerge may not be assigned without the consent of PolyMerge.
5. For deliveries that, at the request of the customer, are to be made later than the agreed delivery dates after the conclusion of the contract, payment must be made as if the delivery had been made on time. This also applies if the purchaser does not accept the delivery at the contractually agreed time. The cost of any necessary storage of the goods must be borne by the purchaser.
6. If the customer withdraws from an order without authorization or if the contract is not carried out for reasons for which the customer is not responsible, PolyMerge can, without prejudice to the possibility of claiming a higher actual damage, demand 10% of the agreed remuneration as lump-sum compensation. The purchaser is free to verify that damages have not arisen or are substantially lower than the fixed sum. PolyMerge is entitled to prove higher damage.

IV. Delivery period and the transfer of risk

1. Delivery times specified unilaterally by the supplier are non-binding. The delivery time is based on the agreements between the parties. The supplier's adherence thereto is subject to the proviso that all commercial and technical issues between the parties have been clarified completely and that the purchaser has met all of its obligations, such as providing the necessary official permits or certifications and paying the deposit as agreed. If this is not the case, the delivery time will be extended by the period of delay caused by the purchaser or by third parties.
2. Unless otherwise agreed, the delivery period starts on the latest of the following dates:
 - a) the date of conclusion of the contract
 - b) the date on which the supplier becomes aware of issuing a necessary import license
 - c) the date on which the supplier receives a contractual down payment before the start of production
 - d) the date after the clarification of all technical details.
3. The delivery period is subject to correct and timely self-delivery. The supplier will report any delays that emerge as soon as possible. PolyMerge assumes no liability for delays in delivery and performance due to force majeure and events that make delivery difficult or impossible for PolyMerge (e.g. business disruptions, strikes, lockouts, shortages of staff, transport failures, official orders, etc.). This also applies if these circumstances occur with our suppliers and their sub-suppliers.
4. The contract comes into being with our written order confirmation or by the handing over or delivery of the goods. If an acceptance needs to be carried out, except for cases where the acceptance is justifiably rejected, the acceptance date shall be binding. Alternatively, the notification of the readiness for acceptance shall be binding. Partial deliveries are permissible provided that they are reasonable for the purchaser. Claims for damages for delayed delivery are excluded.
5. The risk shall pass to the purchaser when the delivered item has left the factory, which also applies to part shipments or if the supplier also assumed other performances, e.g., delivery and installation. If an inspection of the order has been agreed, the risk is transferred at that time. The acceptance inspection must be performed without delay by the agreed date, alternatively following the Supplier's notice that the order is ready for acceptance. The purchaser may not refuse the delivery of the order due to the presence of a minor defect.
6. If shipping or acceptance is delayed or omitted as a result of circumstances for which the supplier is not responsible, the risk shall transfer to the purchaser from the date of notification of readiness for shipping or acceptance. The supplier agrees to take out any insurance coverage requested by the purchaser at the latter's expense.
7. If the shipment or acceptance of the order is delayed for reasons for which purchaser is responsible, it will be charged for the costs incurred by such a delay, starting one month after notifications that the order is ready for shipment or the acceptance inspection.

V. Reservation of ownership

1. PolyMerge shall retain the title for all products delivered until the claims under the current business relationship have been settled in full. If payment is made by bill of exchange or check, the supplier's reservation of ownership lasts until the bill or check is cashed. Until the transfer of ownership, the purchaser must insure the delivered item against fire, water and other damage at the owner's expense. If the value of all the security rights to which PolyMerge is entitled exceeds the sum of all secured claims by more than 20 %, PolyMerge shall release a corresponding portion of the security rights at the purchaser's request. The purchaser is obliged to carefully treat the goods. If maintenance work or inspection work is necessary, the purchaser shall have such work carried out regularly at its own cost.
2. The purchaser must neither sell nor pledge the delivery object as security to a third party. The purchaser shall be obliged to inform us immediately about access by third parties to the goods, for example in the event of attachment and any damage or destruction of the goods.
3. We are entitled to rescind the contract and demand the return of the goods if the customer is found to be in breach of contract, declared to be in default of payment, or if infringements of duties occur as outlined in § 2 and 1. This also applies in particular if the purchaser has filed for insolvency proceedings.
4. For contract work, it also applies that the reservation of ownership extends to the full value of the products of PolyMerge resulting from processing, mixing or combining the goods, whereby PolyMerge is regarded as the manufacturer. If third parties retain their reservations of ownership over products used in conjunction with the processing, mixing or combining of the delivered goods, PolyMerge shall acquire co-ownership in proportion to the invoice value of these processed goods. The business partner hereby assigns any claims against third parties arising from the resale as a whole or in the amount of any co-ownership share of PolyMerge as security to them. The business partner is authorized to collect these until revocation or the suspension of payments to PolyMerge for their account.

VI. Warranty and Liability

1. The supplier is liable for defects in the delivery for a period of 12 months from the date of the transfer of risk. For parts subject to wear, no guarantee is assumed. Obvious defects must be reported in writing within two weeks of receipt of the delivered items. Otherwise the assertion of a warranty claim is excluded. Other defects must be reported to the supplier in writing immediately. The buyer must grant PolyMerge reasonable time and opportunity to remedy the defect. The local distance from the purchaser's headquarters must be taken into account. The supplier can refuse to remedy defects if the client does not fulfill its obligations. Modifications or repair work improperly carried out by the purchaser or third parties without the prior approval of the supplier will exclude the liability for any damage to the delivery resulting therefrom.
2. The supplier's warranty obligation extends to the replacement free of charge (ex works) or the perfect repair of all demonstrably defective parts of the delivery. Liability for spare parts is the same. The costs of the arrival and departure of a mechanic for warranty work are borne by the purchaser. Replaced parts are the property of the supplier. We also accept no liability for damage caused by the following: Improper or incorrect use, incorrect installation or commissioning by the Purchaser or third parties, natural wear and tear, faulty or negligent treatment, especially excessive stress, unsuitable operating resources, deficient construction works, unsuitable foundation material, chemical, electrochemical or electrical influences – unless they are the responsibility of the supplier.
3. Insignificant, reasonable deviations in the dimensions and versions do not constitute entitlement for complaints, unless absolute compliance has been expressly agreed. Technical improvements and necessary technical modifications are also considered to be in accordance with the contract, if they are reasonable and do not constitute deterioration of the serviceability.
4. If the purchaser or a third party performs repairs improperly, the supplier is not liable for any resulting consequences. The same shall apply to any changes to the delivered item without the prior agreement of the supplier.
5. If operating or maintenance instructions given by the supplier have not been followed, alterations have been undertaken on the product, parts have been replaced or spare parts used that did not correspond with the original specifications, all guarantee provisions are nullified if the business partner is unable to refute a correspondingly substantiated claim that one of these circumstances has given rise to the fault.
6. The supplier shall only be liable for defects other than to the delivered item, for whatever legal reasons, in case of intent, gross negligence of bodies or executives, culpable violation of life, body or health, defects whose presence was disclosed maliciously or if their absence was guaranteed. Any further claims of the Ordering Party, including the replacement of damages not caused directly to the delivered item, shall be excluded.

VII. Withdrawal and reduction

1. The purchaser can withdraw from the contract without being entitled to any further claims if the delivery is finally impossible for the supplier.
2. If the delivery becomes impossible for the supplier due to political or other unforeseen events, it can withdraw from the contract. Claims for damages on the part of the purchaser due to such a withdrawal are excluded.

VIII. Data protection

The purchaser is hereby informed that the supplier will process your personally-identifiable data obtained in the course of the business relationship in accordance with the provisions of the Federal Data Protection Act (BDSG). The contractual partners undertake to treat all information and documents confidentially and to protect them against misuse by third parties.

IX. Other provisions

1. The place of performance for the mutual obligations is the place of business of the supplier. This Agreement shall be subject to German law. The place of jurisdiction is the court responsible for the seat of the supplier. However, the supplier is entitled to file suit at the purchaser's headquarters.
2. The contracts concluded according to the above delivery conditions remain binding in all remaining parts for the contractual partners even if individual provisions are ineffective.