

## Hilgenberg-Ceramics GmbH & Co. KG - Terms and Conditions -

Last updated: 08/07/2023

- here in after referred to as Hilgenberg Ceramics -

### 1. Definition, Scope

1.1 The following terms and conditions of sale and delivery apply exclusively to all legal relationships with companies and natural and legal persons under private and public law in which we deliver goods or services.

We do not recognize general terms and conditions that conflict with or deviate from our terms and conditions of sale and delivery as well as other guidelines of the customer, even if we do not expressly object to them in individual cases and/or deliver without reservation to the knowledge of them.

Our terms and conditions of sale and delivery shall also apply in the current version to all future deliveries and services for the customer.

1.2 Agreements or ancillary agreements deviating from these terms and conditions are only effective if they have been confirmed in writing by Hilgenberg Ceramics.

### 2. Offer and order confirmation

2.1 Our offers are subject to change with regard to price, quantity, delivery time and delivery option.

2.2 Hilgenberg Ceramics reserves property rights and copyrights to illustrations, drawings, calculations and other documents created or significantly modified by us. The disclosure to third parties requires our express written consent.

2.3 Automatically generated manufacturing costs on the website do not constitute an offer. These are rough estimates based on the electronically transmitted geometry data. The estimates are automatically generated according to an algorithm. For the preparation of an offer, a specific request is required, which contains

further data relevant to the production, such as tolerances, material properties, surface finish, etc.

2.4 By placing an order, the customer makes a binding declaration that he wishes to purchase the ordered goods.

2.5 If the order qualifies as an offer in accordance with § 145 BGB, Hilgenberg Ceramics can accept it within 4 weeks.

2.6 A delivery contract is only concluded by a written order confirmation, at the latest with delivery. If Hilgenberg Ceramics can prove by submitting a transmission report that it has sent a declaration by fax or remote data transmission, it shall be presumed that the customer has received the declaration.

2.7 Any acceptance by us is subject to the proviso that there are no legal obstacles (e.g. export control regulations) to the contrary to a delivery.

### 3. Prices and terms of payment

3.1 All prices of Hilgenberg Ceramics are ex works (EXW according to Incoterms® 2010, ICC) plus the statutory value added tax valid at the time of invoicing, excluding packaging, freight and transport insurance; these will be invoiced separately.

3.2 The customer is not entitled to withhold payments or offset them against any counterclaims, unless these have been acknowledged by us or have been legally established. In the event of default in payment by the customer, we shall also be entitled to withhold further deliveries or services.

3.3 Unless otherwise agreed, the customer undertakes, regardless of the time of receipt of the goods, to pay the purchase price without deduction of discount within 14 days of the invoice date. We reserve the right to assert further damages. If several claims are outstanding, we shall be entitled to offset payments made by the customer against the oldest claim due.

3.4 Payments shall only be deemed fulfilled when the amount is irrevocably available in one of the bank accounts stated in our invoice.

#### **4. Retention of title**

4.1 We reserve title to all goods delivered by us until all our claims have been settled in full.

4.2 The purchaser is obliged to store and label our goods separately (reserved goods). In the event that third parties assert a right to the goods subject to retention of title, the customer is obliged to notify us immediately.

4.3 Any processing or transformation of the reserved goods shall be carried out by the purchaser on our behalf without any obligations arising from this. If the purchaser combines, mixes, blends or processes the reserved goods with other goods or transforms them with other goods, we shall be entitled to co-ownership of the resulting new goods in the ratio of the invoice value of the reserved goods to the other goods. In this respect, the new goods shall be deemed to be goods subject to retention of title within the meaning of these terms and conditions.

4.4 Pledges and transfers of ownership by way of security to others are not permitted during the term of our retention of title. In the event of seizure, confiscation or other dispositions by third parties, the customer must notify Hilgenberg Ceramics immediately and provide it with all information and documents necessary to protect its rights.

4.5 In the event of breach of contract by the customer, in particular in the event of default in

payment or in the event of a breach of an obligation under 4.2 or 4.4, we shall be entitled to withdraw from the contract and demand the return of the goods subject to retention of title. However, it is not necessary to withdraw from the contract in order to assert this retention of title, unless the customer is a consumer.

#### **5. Delivery and delay**

5.1 Unless otherwise stated in the order confirmation, the customer agrees to "ex works" as standard delivery condition. Shipment is at the risk and expense of the customer. This also applies to potential returns.

5.2 Compliance with agreed delivery and service dates presupposes that all technical questions have been clarified and that payments or other obligations of the customer are available or fulfilled on time. If this does not happen, the deadline shall be extended appropriately. Delivery times are inhibited by redesigns and article changes requested by the customer. Ongoing deadlines only start running again when the changes are approved by the customer.

5.3 Hilgenberg Ceramics will supply the purchaser with contractual goods in accordance with its delivery possibilities. Partial deliveries are permitted, provided that this does not result in any disadvantages for use.

5.4 The delivery period shall be extended in the event of force majeure, strikes, inability through no fault of our own as well as unfavorable weather conditions for the duration of the disability.

#### **6. Warranty**

6.1 Guarantees require a separate agreement and must be confirmed by us in writing. A reference to DIN standards or comparable standards serves only as a description of the goods and does not constitute a guarantee.

6.2 Upon receipt, the customer must inspect the goods immediately with regard to identity, quantity, transport damage and visible defects. Any deviations from the existing agreement found in this process must be reported by the customer immediately, at the latest 10 days after receipt of the goods at the place of destination. Hidden defects must be reported immediately after they have been discovered. in writing. The customer bears the burden of proof for all claim requirements, in particular for the defect itself, for the time of discovery of the defect and for the timeliness of the notice of defect.

6.3 Deviations in the color and dimensions of the goods produced cannot be ruled out due to processing and do not constitute a material defect, provided that the deviations are not significant for the intended use of the goods or are not an explicitly warranted property. The customer must expressly inform Hilgenberg Ceramics of this in advance of the preparation of the offer.

6.4 The purchaser is obliged to give us an opportunity to inspect the defect complained of within a reasonable period of time, otherwise, his warranty claims expire.

6.5 In the event of proven defects, we shall, at our discretion, remedy the defects free of charge or provide a replacement free of charge against return of the rejected goods. The exemption from costs does not apply to the extent that the costs for the purpose of subsequent performance necessary expenses, in particular transport, travel, labor and material costs, because the object of the delivery has subsequently been taken to a place other than the registered office or branch of the customer. If the shipment is in accordance with the intended use, the subsequent performance is free of charge for the customer.

6.6 Warranty claims that go beyond those mentioned under 6.5 are excluded unless the rectification of the defects fails or the removal or replacement delivery is unjustifiably refused by

us or a reasonable deadline set by the customer for rectification or replacement expires without result. In these cases, the customer can withdraw from the contract or reduce the purchase price.

6.7 If the purchaser chooses to withdraw from the contract due to a legal or material defect after subsequent performance has failed, he shall not be entitled to any additional claim for damages due to the defect. If the purchaser chooses compensation for damages after subsequent performance has failed, the goods shall remain with the purchaser if this is reasonable for him. The compensation is limited to the difference between the purchase price and the value of the defective item. This does not apply if we fraudulently caused a breach of contract. In all other respects, our obligation to pay damages is governed by clause 6.9.

6.8 Recourse claims of the customer against us according to § 478 BGB exist only to the extent that the customer and his customer do not has made agreements that go beyond the statutory claims for defects.

6.9 12 months after delivery, no warranty claims can be made. The limitation period according to §479 para. 2 BGB remains unaffected.

6.10 If Hilgenberg Ceramics has expressly informed the buyer of possible material defects during the preparation of the offer and the buyer nevertheless requests the provision of the service, such defects are excluded from a warranty.

6.11 The physical-mechanical properties of the material (flexural strength, gas tightness, toughness, etc.) do not represent guaranteed properties. The properties stated on the website or in the data sheet are indicative. Guaranteed properties require an explicit commitment on the part of Hilgenberg Ceramics, which must be negotiated in advance.

6.12 For damages based on the breach of essential contractual obligations as a result of simple negligence on the part of Hilgenberg-Ceramics, liability shall be limited to the foreseeable damage typical for the contract up to a maximum of the value of the delivery item or service.

6.13 Hilgenberg Ceramics reserves the right to withdraw from the contract even after the order confirmation has been issued if the service to be provided during the manufacturing process is considered not to be manufacturable or of insufficient quality according to the customer's previously agreed requirements. In this case, the customer (contractor) has no claims for damages. We assume no liability for the functionality of the manufactured part in the customized application.

## **7. Confidentiality and property rights**

7.1 The contractual partner assures that the data transmitted by him for the purpose of component production does not interfere with the rights of third parties. These include patent rights, copyrights, rights of general interest, utility models, competition rights and the like.

7.2 The purchaser shall treat all information of a technical and/or business nature obtained within the scope of the order as strictly confidential, regardless of the conclusion of a contractual relationship, even for the period after the conclusion or termination of a contractual relationship. This does not apply only if the purchaser proves that he may legitimately use trade secrets and confidential information.

7.3 At our request, all items provided on loan and all information originating from us (including copies, records, etc.) must be returned to us immediately or destroyed. The only exceptions to this rule are copies required by law.

7.4 Drawings, specifications, operational documents, samples and models, matrices, moulds, tools and other means of production as well as other documents handed over by us shall

remain our property and may - unless necessary for the business relationship - not be passed on or reproduced in whole or in part without our written consent. Contents may - not even partially - be exploited, electronically processed or made available to third parties or the public or otherwise commercially exploited. Any treatment or processing of the items mentioned shall be carried out on our behalf. We reserve all copyrights and other property rights to the objects mentioned.

7.5 The geometry data or drawings required for the production of the customers are treated confidentially by us and protected from access by third parties. The geometry data is only used for the production of the component.

## **8. General provisions**

8.1 The place of jurisdiction is the court responsible for the registered office of Hilgenberg Ceramics.

8.2 German law shall apply exclusively to the exclusion of the UN Convention on Contracts for the International Sale of Goods.

8.3 Should any provision of these General Terms and Conditions be or become invalid, this shall not affect the validity of the remaining provisions. The contracting parties are obliged to replace the invalid provision with a provision that comes as close as possible to it in terms of economic success.

8.4 The contract language is German. If another language is used, the German wording shall take precedence.

8.5 Other agreements between the business partners that deviate from these provisions must be made in writing. Verbal agreements are not permitted.