

---

A: General Terms and Conditions of Gutekunst Formfedern GmbH for exclusive use with companies.

B: Data privacy notice

---

## **A: General Terms and Conditions of Gutekunst Formfedern GmbH for exclusive use with companies.**

### Provider and contractual partner

Gutekunst Formfedern GmbH  
Siemensstr. 11  
72285 Pfalzgrafeweiler

Telephone: +49/ (0)7445/ 8516-0  
Fax: +49/ (0)7445/ 8516-12  
Email: info@gutekunst-formfedern.de

VAT no.: DE 309990512

Register Court: Stuttgart Local Court  
Register Number: HRB 759128

Director: Mr Hagen Gutekunst

As at: 02/2020

## **Section 1 - Scope**

(1) These terms and conditions of the company Gutekunst Formfedern GmbH (hereinafter: "Vendor") apply to all deliveries, services and offers by the Vendor to companies (hereinafter: "Customers") as defined in s. 14 BGB, according to this, with any natural or juridical person or legally competent partnership carrying out their independent professional or commercial activity when concluding a legal transaction.

(2) The customer's terms and conditions are rejected unless the parties have expressly agreed otherwise.

## **Section 2 - Conclusion of contract and delivery reservation**

(1) The vendor's offers merely represent a request to the customer to make an offer to buy to the vendor. By submitting a written order, the customer makes a binding offer to buy to the vendor. The vendor only accepts this offer to buy with a separate declaration of acceptance within 14 days of receipt of the offer to buy.

(2) The purchase transaction and contact shall be by email, if applicable. The customer must therefore ensure that the email address stated for the purchase transaction is correct so that

correspondence can be sent to it. When using spam filters, the customer must ensure that all emails sent by the vendor or its purchase management service providers are received.

(3) The correct and timely self-delivery based on a congruent cover transaction remains reserved. The vendor shall immediately inform the customer if the contractual goods are not available and, in the case of withdrawal, shall immediately refund the compensation paid.

(4) Design changes, and other changes to technical data and performance features, insofar as they serve technical progress and are reasonable for the customer, remain reserved.

### Section 3 - Prices

(1) All prices stated in the offers are net plus the respective statutory VAT and apply "ex stores". The VAT is reported separately.

(2) Additional costs may be incurred for the shipping of goods, in the form of packaging and shipping costs, as well as disposal costs. These costs are stated to the customer before the shipping instruction.

(3) Other components of the price, e.g. additional taxes, customs or other charges, may be incurred for international deliveries and shall be charged to the customer.

### Section 4 - Payment conditions

Payments can be made as follows:

- Payment by bank transfer (payment in advance)

The vendor's bank details for receiving payments shall be provided to the customer upon acceptance of the contract. After the payment amount has been credited to the vendor's stated bank account, the contractual work and services shall be provided.

- Payment by invoice (creditworthiness required)

If the vendor offers the customer the option to pay by invoice, the purchase price is due without deduction within 30 days of the invoice date. For payments within 10 days of the invoice date, the vendor grants a 2% discount.

### Section 5 – Delivery / packaging

(1) Information about the delivery date is only deemed to be binding if the delivery date has been confirmed in writing by the vendor.

(2) Unless agreed otherwise, delivery is ex stores and at the customer's cost and risk.

(3) If the vendor cannot comply with the agreed delivery date, it shall promptly inform the customer of this. Disruptions in its business operations, which are not the fault of the vendor, or in those of suppliers, notably strikes and lockouts, as well as cases of force majeure, shall extend the delivery time corresponding to the duration of the disruption. In such cases, the customer is only entitled to withdraw if it duns the agreed work and services after the end of the delivery period, sets a reasonable extension and this

extended deadline is also missed. If the delivery date is determined on a calendar basis, the reasonable extension to be set by the customer shall start after its end. The statutory right to compensation instead of performance shall remain unaffected.

(4) Partial deliveries are permitted if they are reasonable for the customer.

(5) Place of return for packages as defined in s. 15 (1) (e.g. transport packaging) is agreed as the vendor's place of domicile. The costs for this return shall be borne by the customer.

## Section 6 - Retention of title

(1) The delivered object, including any extras ("bonus in kind"), shall remain the vendor's property until fulfilment of all its claims against the customer from the business relationship. In the event that the customer acts in breach of contract, the vendor reserves the right to recover the conditional goods. Recovery of the goods is not withdrawal from the contract unless this is expressly agreed by the vendor.

(2) The customer is authorised to sell on the conditional goods in normal business transactions. In the case of sale of the conditional goods, as security the customer herewith cedes its claim from the resale, with all related rights, to the vendor without this requiring additional separate declarations. The transfer shall include any balance demands. However, the transfer only applies at the amount corresponding to the price of the conditional goods charged by the vendor. The customer shall remain authorised to collect the debt, also after transfer. This shall not affect the vendor's authority to collect the debt. However, the vendor shall not collect the debt as long as the customer fulfils its payment obligations from the revenues received, is not in arrears and does not suspend payments.

(3) Processing of the conditional goods by the customer is always in the name of and on behalf of the vendor. In this respect, the customer's existing vested rights to the processed conditional goods shall continue. If the conditional goods are processed with other goods that do not belong to the vendor, the vendor shall acquire joint ownership of the new item in relation to the invoice amount of the conditional goods to the other processed objects at the time of processing. This shall also apply in the case of mixing. If the mixing is performed such that the customer's item can be seen as the main item, it is agreed that the customer shall regularly transfer joint ownership to the vendor and thereby safeguard the sole ownership or joint ownership for the vendor. In order to secure the vendor's debt, the customer shall also cede such debts, which accrue to it as a result of combining the conditional goods with a property against a third party; the vendor herewith accepts the transfer.

(4) As long as ownership has not yet transferred, the customer shall immediately inform the vendor in writing if the delivered conditional goods are seized or exposed to other intervention by third parties. The customer shall provide the vendor with all information and documents, which are necessary to sue a third party in accordance with s. 771 ZPO.

(5) Upon request from the customer, the vendor shall release the securities provided by it if their value exceeds the debts being secured by more than 20 %.

## Section 7 - Liability due to defects

(1) The expiration period for defects to new goods is one year from transfer of risk. For used goods, rights and claims due to defects are ruled out in principle. The expiration period shall not start again if a replacement is delivered as part of the liability due to defects.

(2) The statutory expiration periods for recourse claims according to s. 478 BGB shall remain unaffected, this shall also apply in the event of a culpable breach of duty and malicious concealment of a defect. According to the conditions of the following paragraph 5), these liability restrictions shall not apply to claims for compensation and costs asserted by the customer because of a defect.

(3) Subject to prompt reporting of defects, the vendor shall repair or replace, at its choice, if there is a defect. If the repair fails after two attempts, the customer can withdraw from the contract or reduce the remuneration.

(4) For sales to a trader as defined in the Commercial Code (s. 1 HGB), the commercial duties of examination and complaint as defined in s. 377 HGB apply. The goods are deemed to have been approved if the statutory duty of notification is omitted.

(5) In the event of injury to life, limb or health, the vendor shall be liability without restriction on every legal ground. This shall also apply in the case of malice and warranty commitments or if the liability is due to mandatory statutory provisions, such as according to the Product Liability Act.

(6) Moreover, the statutory conditions shall apply.

## Section 8 - Liability

(1) The vendor is liable according to the statutory conditions, insofar as the customer asserts claims that based on malice or gross negligence, including malice or gross negligence of their representatives or vicarious agents.

(2) Moreover, the vendor shall only be liable according to the Product Liability Act and for injury to life, limb or health or because of culpable breach of material contractual duties (cardinal duties).

(3) The customer's claim for compensation for the breach of material contractual duties (cardinal duties) is limited to the damages foreseeable typically foreseeable when concluding the contract, unless there is another case of mandatory liability according to para. 1 or 2.

(4) A change to the burden of proof against the customer is not connected with the above conditions.

## Section 9 - Offsetting / retention

(1) The customer may only set-off claims that are not disputed or have been legally upheld.

(2) The customer is only authorised to exercise a right of retention to the extent that its counter claim is based on the same contractual relationship.

## Section 10 - Concluding provisions

(1) The law of the Federal Republic of Germany shall apply.

(2) The conditions regarding the CISG shall not apply.

(3) If the customer is a trader, juridical person under public law or a public-law special asset, the exclusive place of jurisdiction for all disputes from this contract is the vendor's place of domicile. This shall also apply if the customer does not have a general place of jurisdiction in Germany or the EU or if their home or usual place of residence is not known at the time the case is brought.

(4) If there is a difference in the contents of a translation of these General Terms and Conditions, the German version shall apply before the translation.

---

## **B: Data privacy notice**

As at 02/2020

### **1. Name and contact details of the person responsible for processing**

Gutekunst Formfedern GmbH  
Siemensstr. 11  
72285 Pfalzgrafenweiler

Telephone: +49/ (0)7445/ 8516-0  
Fax: +49/ (0)7445/ 8516-12  
Email: info@gutekunst-formfedern.de

### **2. Collection and storage of personal data and the type and purpose of its use**

If you place an offer with us or request an offer, we collect the following information:

- Title, forename, surname, email address, address, if applicable telephone number and bank details;
- Information needed for contract processing.

This data is collected

- so that you can be identified as our customer or potential customer;
- in order to be able to fulfil the order;
- so that you can be supported reasonable;
- for correspondence with you;
- for customer management;
- for billing purposes.

The data processing is performed on the basis of your order or enquiry and according to Art. 6 (1) sent. 1 lit. b German GDPR is necessary for the stated purposes for the appropriate processing of the order or enquiry and for the mutual fulfilment of the contractual obligations.

**We also reserve the right to use your data for direct marketing, if applicable, by email or post in accordance with s. 7 (3) UWG if you do not object to this use. The direct marketing exclusively includes offers for similar goods to those you have already purchased from us. The legal basis in this case is Art. 6 (1) lit. f GDPR. Our justified interest exists in the economic interest of the sale of our goods.**

The personal data collected by use for the order is stored until the end of the order and then deleted, unless we have duties of retention and documentation according to Art. 6 (1) sent. 1 lit. c GDPR on the basis of tax law and commercial law (for example HGB (German Commercial Code), StGB (German Criminal Code) or AO (German Fiscal Code) requiring longer storage or if you have consented to further storage according to Art. 6 (1) sent. 1 lit. a GDPR.

### 3. Forwarding data to third parties

Your personal data is not transmitted to third parties for purposes other than those listed below.

Your personal data is forwarded to third parties insofar as this is necessary according to Art. 6 (1) sent. 1 lit. b GDPR for processing the order. This includes, in particular, the forwarding of your data to transport companies and financial service providers.

### 4. Creditworthiness / scoring

If we offer you payment by invoice, we reserve the right to forward the data relevant to the contract (notably forename and surname, street, building number, post code, city) to the credit rating agency

Creditreform Pforzheim Müller + Schott KG  
PO Box 1846  
D-75118 Pforzheim

for credit information based on mathematical-statistical processes. We use the information received as a result about the statistical probability of a default for the decision as to whether payment by invoice is offered for the contract processing.

The credit information can include probability values (scores) that are calculated on the basis of scientifically accepted mathematical-statistics processes.

The legal basis for this processing is our justified interests in cover security for the debt according to Art. 6 (1) lit. f GDPR .

### 5. Rights of data subjects

You have the right:

- in accordance with Art. 7 (3) GDPR at any time to revoke consent granted to us. The consequence of this is that for the future we may no longer continue the data processing that was based on this consent;
- in accordance with Art. 15 GDPR to demand information about your personal data processed by us. In particular you can demand information about the processing purposes, the category of the personal data, the categories of recipients, to whom your data is or has been disclosed, the planned duration of storage, the existence of a right of correction, deletion, restriction of processing or objection, the existence of a right of complaint, the origin of your data if not collected by us, and about the existence of automated decision-making, including profiling, and any useful information about its details;
- in accordance with Art. 16 GDPR to demand the immediate correction of your incorrect or incomplete personal data held by us;
- in accordance with Art. 17 GDPR to demand the deletion of your personal data held by us, unless the processing is necessary in order to exercise the right to free opinion and information, to fulfil a legal obligation, for public-interest reasons or to assert, exercise or defend legal claims;
- in accordance with Art. 18 GDPR DSGVO to demand the restriction of processing of your personal data, insofar as the accuracy of the data is disputed by you, the processing is unlawful but you reject its deletion and we no longer need it to assert, exercise or defend legal claims or you have lodged an objection against the processing in accordance with Art. 21 GDPR;

- in accordance with Art. 20 GDPR to demand receipt of your personal data, which you have provided to us, in a structured, standard and machine-readable format or to demand transmission to another responsible person, and
- in accordance with Art. 77 GDPR to complain to a regulatory authority. Typically you can contact the regulatory authority at your usual place of residence, place of work or our place of domicile.

## 6. Right of refusal

If your personal information is being processed on the basis of justified interests in accordance with Art. 6 (1) sent. 1 lit. f GDPR, you have the right according to Art. 21 GDPR to refuse the processing of your personal data provided there are reasons for this, which derive from your specific situation. **The refusal can be made, in particular, with regard to the processing for direct marketing purposes.**

If you wish to exercise your right of refusal, an email is sufficient to:  
info@gutekunst-formfedern.de