

GENERAL TERMS OF SALE

Status : 01/2002

I. Applicability / Offers

1. These General Terms of Sale shall apply to all contracts including future contracts and other services. Vendor's terms shall not be binding upon us even if we haven't expressly objected thereto upon receipt.
2. Our offers shall be free. Arrangements, subsidiary oral agreements, promises, guarantees and other representations by our sales staff shall only be binding if confirmed by us in writing.
3. Documents being part of an offer such as drawings, illustrations, technical data, references to standards as well as advertising statements don't imply any quality statements, warranted characteristics or guarantees unless they are expressly referred to as such in writing.
4. Deviations of a shipment from offers, specimens, trial shipments and previous deliveries shall be permissible subject to the respective DIN-EN standards or other relevant technical standards.

II. Prices

1. Unless otherwise agreed our prices shall be ex works excluding packing material plus the respective value added tax.
2. In case of packed goods packing material shall be at cost price. We will take back packing material as provided for by law, if returned by Buyer within a reasonable period of time.

III. Payment and set-off

1. Our invoices shall be due and payable within 14 days (2% discount) or within 30 days (net) from the date of invoice. Payments shall be made in a way that we can dispose of the amount due at maturity at the latest. Buyer shall be in default 10 days after maturity of our claim at the latest without requiring a warning.
2. Invoices falling below EUR 50.00 or regarding assembly, repair, moulds and shares in tool costs shall be due and payable without delay.
3. In case of counterclaims denied or not established by us Buyer shall not be entitled to a retention or a set-off.
4. When exceeding periods for payment and in case of default at the latest we will charge interest at the standard rates for overdraft credits, but min. 8 percent above the basic interest rate. We reserve the right to enforce a damage caused by default.
5. If after signing a contract it becomes apparent that our claim for payment is put in danger as a result of Buyer's lacking financial capacity, we shall exercise the rights according to Section 321, German Civil Code (defence of insecurity). We shall also be entitled to accelerate all statute-barred claims arising from current business relations with Buyer and to revoke the direct debit authorization pursuant to Par. V/5. In case of a delay in payment we shall also be entitled to call upon Buyer to return the goods within a reasonable grace period and to disallow any resale or reprocessing of the goods supplied. Taking back goods does not imply a termination of the contract. Buyer may avert all these legal consequences by providing security for our claim for payment put in danger. The provisions of the Insolvency Act shall remain unaffected.
6. A discount agreed upon only refers to an amount invoiced excluding freight and requires the payment of Buyer's liabilities at the time of discounting.

IV. Periods of delivery

1. Periods and times of delivery are deemed to have been complied with, if the object of delivery has left our premises.
2. Periods of delivery shall be extended for a reasonable period of time in case of labour disputes (strike, in particular) and lock-outs as well as in case of unforeseeable events beyond our control insofar as such events definitely have an influence on the production or delivery of the goods. This also applies to suppliers where such circumstances have originated. We will notify Buyer of such circumstances. This provision shall apply mutatis mutandis to times of delivery.

V. Reservation of title

1. All goods supplied shall remain our property (goods subject to retention of title) until all claims including future claims and qualified claims arising from our business relations have been satisfied on which legal ground whatsoever.
2. Goods subject to retention of title are processed by us in our capacity as manufacturer in terms of Section 950, Civil Code, without having a binding effect upon us. Items processed by us shall be regarded as goods subject to retention of title in terms of Par. V/1. If Buyer processes, combines or mixes goods subject to retention of title with other goods, we shall have co-ownership in the new object in proportion of the amount invoiced in regard to the goods subject to retention of title to the amount invoiced in regard to the other goods used. If our ownership has become extinct as a result of processing or mixing, Buyer shall transfer his rights of ownership in the new object to the extent of the amount invoiced in regard to the goods subject to retention of title, and he shall keep them in custody for us free of charge. The co-ownership rights referred to hereinbefore shall be regarded as goods subject to retention of title in terms of Par. V/1.
3. Buyer shall use the goods subject to retention of title in his ordinary course of business on his standard terms and conditions, and shall be allowed to sell them as long as he is not in default, provided that claims arising from a resale in terms of Par. V/4 - V/6 pass onto us. Otherwise he shall not dispose of the goods subject to retention of title.
4. Buyer's claims arising from a resale of the goods subject to retention of title shall be assigned to us herewith. They shall be used for security purposes like goods subject to retention of title. If Buyer sells goods subject to retention of title together with other goods not sold by us, an assignment of claims from such resale shall be applicable to the extent of the resale value of the goods subject to retention of title sold. When selling goods in which we hold co-ownership shares pursuant to Par. V/2, an assignment of claims shall be applicable to the extent of such co-ownership share.
5. Buyer shall be entitled to collect all claims from a resale as long as we do not object thereto which we can do at any time. We will exercise such right to revocation in the events referred to in Par. II/5. If requested by us, Buyer shall be under an obligation to notify his customers of such assignment to us without delay, if we have not already done so and to provide the information and documents needed in connection with such collection.
6. Buyer shall notify us of any pledging or other interference by third parties without delay.
7. If the value of the existing security exceeds the value of the secured claim by a total of 50%, we shall release certain security at our discretion at Buyer's request.

VI. Execution of delivery

1. Upon handing over goods to a forwarder or carrier and/or when leaving the warehouse or - in case of a chain-of-delivery business - the supplying factory, the risk in all business incl. free of charge deliveries and free to the door deliveries shall pass on to Buyer. The duty to unload and the costs involved shall be Buyer's responsibility. We will provide insurance only if requested by Buyer bearing the costs involved.
2. We shall be entitled to effect part deliveries to a reasonable extent. In case of non-stock items more or less deliveries of up to 10% of the quantity agreed shall be permissible.
3. In case of off-the-shelf-orders we shall be entitled to produce the total quantity ordered and/or to have it produced as a whole. Change requests, if any, cannot be considered after placing the order, unless otherwise expressly agreed upon. Unless otherwise provided for fixed dates and quantities can only be adhered to within the limits of our delivery and the production procedures. If goods are not called as contractually agreed upon, we shall be entitled to charge them as delivered within a reasonable period of time.

VII. Liability for defects

1. In case of a justified immediate notice of defects we may, at our discretion, remedy such defect or deliver faultless goods (subsequent performance). In case of failure or a refusal to accept a subsequent performance Buyer may either reduce the purchase price or terminate the contract after expiration of a reasonable period of time granted. In case of minor defects, Buyer shall only exercise the right to reduce the price.
2. Expenses in connection with the non-performance will only be paid by us, insofar as they are deemed appropriate in proportion to the purchase price. Expenses resulting from transporting the goods sold to a place being different from Buyer's domicile or branch establishment will not be paid by us, unless such use is contractually agreed upon.
3. As long as Buyer does not give us the opportunity to satisfy ourselves of the defect or if he fails to supply the goods complained about or specimens, he cannot refer to defective goods.
4. Additional claims shall be excluded as provided for in Par. VII. This particularly applies to claims for making good a damage not done to the goods themselves (consequential harm caused by a defect).

VIII. General limitation of liability and statute of limitations

1. In case of a violation of contractual and extra-contractual obligations on grounds of impossibility, default, culpa in contrahendo and tortious acts our liability - (for our executives and other vicarious agents) in case of intent and gross negligence - shall be limited to the foreseeable contractually anticipated damage upon signing of the contract.
2. These limitations shall not apply to a culpable breach of essential contractual obligations putting the performance of the contract at risk and in case of a mandatory liability under the Product Liability Act, an injury to life, body or health and in case we have fraudulently concealed any defects or guaranteed the absence thereof. The burden of proof shall remain unaffected.
3. Unless otherwise agreed upon contractual claims asserted against us by Buyer on grounds of or in connection with a delivery of goods will be statute-barred within one year after refusal of the goods. Such period shall apply to goods used for a building as designed for and which caused the defectiveness of such building unless such use has been agreed upon in writing. Our liability resulting from a violation of duty caused by intent or gross negligence as well as the statute of limitations regarding statutory rights of recourse shall remain unaffected. In case of a non-performance the limitation period shall not start again.

IX. Copyrights

1. We reserve a property right and a copyright in estimates, designs, drawings and other documents. They shall be made accessible to third parties, if we have consented thereto. Drawings as part of offers and other documents shall be returned upon request.
2. If we have delivered items on the basis of Buyer's drawings, models, specimens and other documents, Buyer shall guarantee that industrial property rights have not been violated. In the event that third parties do not allow us to produce and deliver such items by referring to industrial property rights, we are entitled - without having to check the legal situation - to stop any activity and to demand damages, if Buyer is at fault. Furthermore Buyer shall be under an obligation to release us from all claims asserted in connection therewith.

X. Test objects, moulds, tools

1. If Buyer is required to provide components in connection with the execution of the order, they shall be supplied free plant in the agreed quantity or otherwise in reasonable additional quantity considering a possible waste, with such components being free of charge and free from defects. If not, the costs involved and other consequences shall be the responsibility of Buyer.
2. The production of test objects including the costs of moulds and tools shall be the responsibility of Buyer.
3. Property rights in moulds, tools and other equipment required to produce ordered components shall be subject to the arrangements made. If such equipment is unusable prior to the production of the output quantity ordered as agreed, the replacement costs shall be borne by us. We undertake to keep such equipment for min. two years since their last use.
4. Our liability for tools, moulds and other equipment provided by Buyer shall be limited to the diligence we usually employ to our own affairs. Costs of maintenance and care shall be borne by Buyer. Our obligation to preserve shall end max. two years after the final production from the mould or the tool irrespective of Buyer's property rights, if any.

XI. Place of fulfilment, venue and applicable law

1. Place of fulfilment regarding our deliveries shall be our plant. Venue for merchants shall be our headquarters. We may sue Buyer at his venue, too.
2. All legal relations between us and Buyer shall be subject to German law in addition to these terms and conditions by including the provisions of the Convention on Contracts for the International Sale of Goods.

XII. Authoritative version

1. In case of doubt the German version of these General Terms of Sale shall be authoritative.