

General Terms and Conditions of Supply and Payment

Scope of validity

1. These general terms and conditions of supply and payment are applicable where they have been agreed by the contracting partners in writing or by other means.

The business terms and conditions of the partner, unless expressly recognised by us, have no validity.

General provisions

2. Full details of any verbal agreements will be immediately confirmed in writing by the contracting partners.
3. Orders will not be binding until they are confirmed by us.
4. Information and illustrations contained in brochures and catalogues are, in accordance with usual trade practice, regarded as approximations unless they have been expressly described by us as binding.

Long-term and call contracts, price adjustment

5. Unlimited contracts may be terminated by 6 months' notice.
6. If any significant change occurs in the case of long-term contracts (contracts with a term of more than 12 months and unlimited contracts), in respect of wage, material or energy costs, each of the contracting partners is entitled to demand an appropriate adjustment of the price, taking these factors into consideration.
7. Where a binding order quantity is not agreed, our calculation will be based on the non-binding order quantity expected by the partner for a specific period of time (target quantity). Where the partner purchases less than the target quantity, we are entitled to increase the unit price by an appropriate amount. Where the partner purchases more than the target quantity, we will reduce the unit price accordingly, provided that the partner has given notice of the surplus requirement not less than 6 months before delivery.
8. In the case of call supply contracts, unless otherwise agreed, binding quantities are to be notified to us by call not less than 4 months before the delivery date.

Any additional costs caused by our partner through late calling or subsequent amendments to the call in respect of time or quantity are to be borne by the partner.

Confidentiality

9. Each of the contracting partners will use all documents (which will also include samples, models and data) and information received by them under the business relationship only for the contractual purpose, and maintain secrecy in respect of third parties with the same due care as applied to their own documents and information, where the other partner describes them as confidential or has an obvious interest in maintaining secrecy in respect of such documents or information.

This obligation commences on receipt of the first documents or information and continuous after the end of the business relationship.

10. The obligation does not apply to documents and information which are generally known, or which were already known to the contracting partner on receipt and where the contracting partner was not under obligation of secrecy, or where they are subsequently conveyed by a third party who is authorised to pass on such documents or information, or where the documents or information are developed by the receiving contract partner without exploitation of documents or information of the other contracting partner.

Drawings and specifications

11. Where one of the contract partners makes available to the other drawings or technical documents relating to the goods to be supplied, or to the manufacture of such goods, to the other partner, these remain the property of the contract partner submitting them.

Samples and production materials

12. Manufacturing costs for samples and production materials (tools, moulds, templates, etc.) will, unless otherwise agreed, be invoiced separately from the goods to be supplied. This also applies to production materials which have to be replaced as a result of wear and tear.

13. The costs for maintenance and proper storage, together with the risk of damage to, or destruction of the production materials, will be borne by us.

14. In case tools or production materials are free issued by our partner for the manufacture of parts being specific to our partner, the costs for maintenance will be advised to the partner and born by the partner, whereas we are responsible for the proper storage. The risk of damage to or destruction of the production materials will be borne by us.

15. Where, during the period of manufacture of samples or production materials, the partner abandons or terminates the co-operation, all manufacturing costs incurred up to that time will be borne by that partner.

16. Production materials - provided by ourselves - remain in our possession even so they have been paid for by our partner. They will be exclusively used for the orders of the respective partner. The production material will be not be made available to the partner due to production technology and knowledge protection reasons, also after termination of the business relationship. The production material will be destroyed by us if requested by the partner.

17. We will keep the production materials free of charge for three years after the final delivery to our partner. We will then request our partner in writing to make known his views on their further use within 6 weeks. Our duty of storage will end if, within these 6 weeks, no such statement has been made, or if no new order has been given.

18. Purchaser-related production materials may only be used by us for supply to third parties with the prior written agreement of our partner.

Prices

19. Our prices are in EURO, exclusive of turnover tax, packing, freight, carriage and insurance.

Payment terms

20. All invoices are due for payment within 30 days after the invoice date.

21. Where we have indisputably supplied goods which are partly defective, our partner is nevertheless obliged to pay for the non-defective part, unless partial delivery is of no use to him. We have the right to ask such products of no use back from our partner. In other respects the partner may only set off payment against counter-claims which have been determined by final judgement or are not disputed.

22. In the event of the target date being exceeded we are entitled to charge interest for the delay the rate of 1,5 % per month.

23. In the event of delay in payment by more than 30 days we may suspend our obligations until payments have been received.

24. Bills of exchange and cheques will only be accepted where this has been agreed, and only on account of performance and on condition that they may be discounted. Discount charges will be calculated from the due date for payment of the invoice amount. A guarantee for presentation of bills of exchange and cheques at the due and proper time and for the lodging of a protest is excluded.

25. If, after conclusion of the contract, there is any significant risk to our claims for payment because of a substantial deterioration in the financial circumstances of the partner, we may demand payment in advance or security within a reasonable time and refuse performance until our demand is met. In the event of refusal on the part of the partner or if the period expires without our demands being met, we will be entitled to withdraw from the contract or to seek compensation for non-compliance.

Delivery

26. Unless otherwise agreed, we will deliver "ex-works". Compliance with the delivery date or delivery period will be based on our notification of readiness for dispatch or collection.

27. The delivery period commences on dispatch of our order confirmation and will be extended as appropriate where the provisions of Article 52 below apply.

28. Partial deliveries are permitted within reason. They will be invoiced separately.

29. Production-related long or short deliveries are permitted within a tolerance of 10 per cent of the total order quantity. The total price will be adjusted accordingly.

Dispatch and transfer of risk

30. Goods which are notified as being ready for dispatch are to be taken over immediately by the partner. We are otherwise entitled, at our option, to dispatch them or to store them at the cost and risk of the partner.

31. In the absence of any special agreement, we will select the transport method and routing.

32. The risk is transferred to the partner on handover to the railway, forwarding agent or freight carrier, or on commencement of storage, but in any case not later than departure from the factory or warehouse; this also applies if we have undertaken delivery.

Delay in delivery

33. If we are able to anticipate that it will not be possible for the goods to be delivered within the delivery period, we will immediately inform the partner in writing of the reasons for this, and also if possible indicate the probable delivery date.

34. In the event of delivery being delayed by one of the circumstances as set forth in Article 52 below, or as a result of any action or omission on the part of the partner, an extension of the delivery period will be granted appropriate to the circumstances.

Reservation of title

35. We reserve the right of ownership in respect of the goods supplied until such time as all claims under the business relationship with the partner have been met.

36. The partner is entitled to dispose of these goods in the regular course of business, provided that all of his obligations under the business relationship with us are fulfilled at the due and proper time. However, he may neither pledge the reserved goods, nor transfer ownership as security.
37. Where payment is delayed by the partner, we are entitled, after reasonable setting of a period of grace, to demand return of the reserved goods at the partner's expense.
38. The partner must inform us immediately of enforcement measures being taken by third parties in respect of the reserved goods by handing over to us the documents required for any intervention. This also applies to infringements of any other kind.

Warranty

39. We will guarantee the goods supplied by us for manufacture free of any defect in accordance with the agreed technical specifications for supply. In the event of our having to supply in accordance with drawings, specifications, samples and the like provided by our partner, the latter will take over the risk of fitness for the intended use. The condition of the goods in accordance with the contract is determined as at the time of transfer of risk in accordance with Article 32 above.
40. Any guarantee in respect of any defect deriving from unsuitable or improper use, defective assembly or operation by the partner or third parties, normal wear and tear, defective or negligent handling, will also be excluded as the consequences of unsuitable modifications or repairs undertaken by the partner or third parties without our approval.
41. The warranty period is determined, unless agreed otherwise, by the applicable law.
42. The partner must notify any obvious defects in writing immediately after receipt of the goods at the specified place, and any concealed defects immediately - but in any case within a period of 6 months of the transfer of risk - on discovery of the defect.
43. Where it is agreed that the goods are to be accepted after completion or that initial samples are to be tested, notification of defects which could have been discovered by the partner under careful acceptance or testing of initial samples is excluded.
44. We must be given the opportunity of assessing the notified defect by the supply of samples. On our request, the goods complained of must be returned to us immediately; we will take over the transport costs where the notice of defect is justified. In the event of the partner failing to observe these obligations, or carrying out modifications of the goods which are complained of without our consent, he will lose any warranty rights.
45. In the event of notice of defect which is justified and made at the due and proper time, we will, at our choice, make improvements to the goods complained of or supply a replacement free of defect. In the case of multiple deliveries the partner will give us a short-term opportunity to remove the defective goods.

46. In the event of our failing to meet these warranty obligations, or failing to do so within a reasonable time in accordance with the terms of the contract, the partner may set in writing a final deadline within which we must fulfil our obligations. In the event of this period expiring without result, the partner may demand reduction of the price, withdraw from the contract or himself carry out, or have the necessary subsequent improvement carried out by a third party after giving information about cost and conditions at our cost and risk. Where the subsequent improvement has been carried out successfully by the partner or by a third party, all claims of the partner are settled after any essential costs incurred by him have been reimbursed.

Other claims, liability

47. Unless otherwise specified below, any additional or more extensive claims by the partner against us are excluded. This applies in particular to claims for compensation arising from delay, impossibility of performance, from negligent violation of accessory contractual obligations, from culpa in contrahendo and from tort. We are therefore not liable for any damage not deriving from the delivered goods themselves. We are in particular not liable for any loss of profit or other financial losses by the partner.
48. The limitations of liability indicated above do not apply in the case of specific intent, gross negligence on the part of our legal representatives or senior employees, and in the event of culpable violation of significant contractual obligations. In the event of culpable violation of significant contractual obligations we are liable - other than in cases of specific intent or gross negligence on the part of our legal representatives or senior employees - only for standard contractual loss, or loss which might reasonably have been expected.
49. The limitation of liability is also not applicable in those cases where there is liability in accordance with product liability laws in the case of defects in goods supplied for private use. It is also not applicable in the absence of guaranteed characteristics, if, and insofar as the object of the guarantee was to cover the partner against any losses not deriving from the goods supplied themselves.
50. Insofar as our liability is excluded or limited, this is also applicable to the personal liability of our employees, workers, personnel, legal representatives and vicarious agents.
51. The legal provisions relating to burden of proof are not affected by this.

Force majeure

52. Acts of God, industrial disputes, disturbances, official measures, non-arrival of deliveries from our suppliers and other unpredictable, unavoidable and serious events will release the contracting partners from their duty to perform for the duration of the disturbance and to the extent of their effect. This is also applicable where these events occur at a time when the contracting partner concerned is in default. The contracting partners are obliged, so far as is reasonable, to provide the necessary information immediately and in good faith to adjust their obligations to the changed conditions.

Place of performance, place of jurisdiction and applicable law

53. Unless otherwise indicated in the order confirmation, the place of performance is our principal place of business.

54. The place of jurisdiction for all legal disputes, including any action relating to payment bills of exchange or cheques, is our principal place of business, where the partner is a registered merchant, a legal entity under public law, or a special fund under public law. We are also entitled to bring an action at the place of business of the partner.
55. The contractual relationship is exclusively subject to the laws of the Federal Republic of Germany. Application of the United Nations Convention on Contracts for the International Sale of Goods of 11 April 1980 (CISG - "Vienna Sales Convention") is excluded.

56. In case one article of this agreement is invalid or becomes invalid due to legal aspects all other articles of this agreement shall remain in power. The invalid articles shall be newly written in a manner that it comes as close as possible to the intended meaning of the article respecting the legal aspects.

Data protection

57. We are entitled to save and process customer data regarding the business relationship in compliance of the German law.

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