

## § 1 Scope

These General Terms of Payment and Delivery (GTC) apply to companies, legal entities under public law and special assets under public law. In all our deliveries and services, the following terms shall apply exclusively.

Solely these GTC shall be binding within a contractual relationship with our partner. Any clauses of partner deviating from our GTC or being an amendment to our GTC or being unfavorable for us shall have no validity even without an express rejection of such clauses by us.

## § 2 General Terms

All verbal agreements between the parties to the contract shall be recorded in writing promptly and in detail.

Information and images contained in brochures and catalogs represent customary approximations, unless they are expressly described by us as binding.

Changes in the agreed terms and conditions of business require prior written approval by the other contractual partner and must take into account any shifts in the risks and costs.

If rights are granted to third parties or third parties are otherwise involved in the contractual relationship, this must be approved by the other contractual partner in each individual case even if intercompany links between one of the contractual partners and the third party are created, already exist or are changed.

## § 3 Long-term and Make-and-Hold Orders, Price Adjustment

Unlimited contracts are subject to 6 months' notice.

If, in the course of long-term contracts (contracts with a term of more than 12 months, or unlimited contracts), a substantial change in the price factors of labor, raw materials or other cost factors occurs, each party to the contract is entitled to demand a reasonable price adjustment which takes these factors into account. Should the contractual volume exceed or fall short of the target by  $\pm 25\%$ , the partners are obligated to adapt the unit price accordingly.

In the case of supply contracts on a make-and-hold basis, binding volumes shall be communicated to us on call purchase at least 3 months in advance of the delivery date, insofar as no other arrangements have been agreed upon. Any changes must be arranged with our logistics department and clarified in each case.

Possible additional costs with respect to time or volume that arise from a late on call purchase or from changes made at short notice on the part of our partner, will be charged to our partner; our calculation is binding in this matter.

Over and above this, the following time periods are stipulated as an obligation to accept delivery:

3 months in the case of finished parts

6 months in the case of raw materials.

Deviations from these regulations may be made in individual cases.

## § 4 Confidentiality

Each party to the contract shall use all documents (including samples, models and data), as well as all knowledge obtained from business relations with the other party to the contract exclusively for those common purposes pursued by both parties. Each party shall take the same care in keeping these documents and this knowledge confidential from third parties as they would with similar documents and knowledge of their own, as long as the other party to the contract states that the information is confidential or if the other party has an obvious interest in maintaining the secrecy thereof.

This obligation does not apply to documents and knowledge publicly known or already known to the other party to the contract when received, and for which this party was not sworn to secrecy. Nor does the obligation apply to those documents and knowledge given by a third-party authorized to pass on the information, or to those which are developed by the receiving party to the contract without the use of confidential documents or knowledge of the other party to the contract.

## § 5 Drawings and Descriptions

If a party to the contract makes drawings or other technical documents available to the other party to the contract that relate to the product to be delivered or the production thereof, these remain the property of the party to the contract who supplied them and are to be treated in a similarly confidential manner in accordance with § 4.

## § 6 Samples and Production Accessories

The production costs for samples and production accessories (tools, dies, templates, etc.) will be invoiced separately from the goods to be delivered, insofar as no other arrangements have been agreed upon.

The costs for maintenance and proper storage, as well the risk of damage or breakage, will be borne by us.

Should our partner suspend business relations or end them during the production of samples or production accessories, all production costs incurred up to that point will be borne by this partner.

The production accessories remain in our possession at least until the supply contract has been processed, regardless of whether these accessories have been paid for by our partner or not. After this, our partner has the right to demand the production accessories insofar as a mutual agreement was made as to the deadline for surrender of the goods and insofar as our partner has fulfilled his contractual obligations entirely. In the case of multiple-part tools, the production accessories are limited to those tool parts specific to the workpiece.

We shall keep the production accessories in safekeeping free-of-charge for 3 years after the last delivery to our partner. After this period, we shall send our partner a written request, asking for a statement within 6 weeks as to the future use of these accessories. Our obligation to store the goods ends if no statement is given within these 6 weeks or if no additional order is submitted.

Customer-related production accessories may only be used by us for supplies to third-parties upon the prior written agreement of our partner.

## § 7 Prices

Our prices are in Euros and exclude any value-added tax payable, packaging, freight, postage, and insurance costs, insofar as no other arrangements have been agreed upon.

If we have undertaken to change or adjust the subject of delivery or the manufacturing process with respect to quality and technical aspects or in terms of price, amortisation of these services through the deliveries or other reasonable remuneration of our services is stipulated.

Cost savings achieved by us or achieved through joint efforts of the contractual partners only need to be passed on if expressly agreed. In this case the cost savings are fully offset against any price reductions agreed on in advance until full covering by such offsetting. Any cost savings above and beyond are offset against our list prices to the extent our customer has contributed to the cost savings.

Customer is entitled to inspect our documents and data only to the extent that these documents and data relate directly to the cost savings in the products affected.

## § 8 Terms of Payment

Payment of all invoices is due as a net amount within 30 days of the billing date, insofar as no other arrangements have been made.

If we have delivered goods that are indisputably faulty in part, our partner is nevertheless obligated to make payment for the fault-free part, unless partial delivery is not beneficial to him. Besides this, our partner may only make counterclaims if they are legally valid and indisputable.

In the event that periods of payment are exceeded, we have the right to invoice interest on arrears, either at the rate which the bank calculates for us for advances on current accounts, or at least to the amount of 8 points above the respective basic interest rate of the European Central Bank.

Upon delay of payment, we may stop fulfillment of our obligations, following written notification to our partner, until payments have been received.

Bills of exchange and checks shall only be accepted after agreement, as well as on account of performance and on condition of their discountability. Discount charges shall be invoiced starting from the due date of the invoice amount. Liability for the timely provision of the bill of exchange and check and for bill protest is excluded.

If it becomes discernible, following conclusion of the contract, that our pecuniary claim is in jeopardy due to insufficient competitiveness of our partner, we may refuse to provide our services and may set a reasonable deadline within which our partner shall offer payment or security against delivery in the form of installments. Upon refusal of our partner or upon non-observance of the deadline, we have the right to rescind the contract and to demand compensatory damages.

## **§ 9 Delivery**

Insofar as no other arrangements are agreed upon, we deliver "ex works". The delivery deadline or the delivery period shall be deemed as met when readiness to dispatch or collect is reported by us within the agreed period.

The delivery period shall begin on the date that our confirmation of order is dispatched and shall be extended accordingly if the conditions outlined in § 15 apply.

Partial deliveries are admissible within a reasonable scope. They will be invoiced separately.

## **§ 10 Dispatch and Transfer of Risk**

Goods reported as ready for dispatch shall be claimed by our partner immediately. Otherwise it is left to our discretion whether to dispatch the goods or to store them at the cost and risk of our partner.

In the absence of a special agreement, we will select the means of transport and the transport route.

Upon handing the goods over to the railways, shipping contractor or carrier, or as soon as the goods go into storage, or at the very latest when the goods leave the plant or depot, the risk is transferred to our partner, regardless of whether we are carrying out the delivery or not.

## **§ 11 Delay in Delivery**

If we are able to foresee that the goods cannot be delivered within the delivery period, we will notify our partner in writing immediately, relate the reasons for the delay and, where possible, provide the expected delivery time.

If the delivery is delayed due to a circumstance outlined in § 15, or due to an action or omission on the part of our partner, an extension to the delivery period commensurate with the circumstances will be granted.

Our partner has the right to rescind the contract only if we are responsible for not observing the delivery date repeatedly and our partner has been unable to set us adequate additional time.

## **§ 12 Retention of Title**

We reserve the right of ownership of the delivered goods until the complete performance of all claims resulting from business relations with our partner have been fulfilled (retained-title goods).

Our partner shall be entitled to re-sell the retained-title goods in the course of normal business, insofar as he fulfils his obligations in time in business relations with us. Pledging or assignment as security of the retained-title goods is, however, not permitted to him. He shall be obligated to safeguard our rights when re-selling retained-title goods on credit.

Upon breach of duty on the part of our partner, in particular upon delay of payment, we have the right to rescind the contract, or retrieve the goods once a reasonable deadline for performance, which has been set for the partner, has passed; the legal stipulations on the dispensability of setting a deadline remain unaffected. The partner is obligated to surrender the goods.

We have the right to rescind the contract if a petition is being filed for commencement of insolvency proceedings on the assets of our partner.

Our partner shall immediately cede to us as security all claims and rights from the sale of goods for which we have the right of ownership. We hereby accept the ceding.

If our partner machines or processes the retained-title goods, this shall be carried out exclusively for us. In case the retained-title goods are processed or inseparably combined with other objects not belonging to us, we shall be entitled to direct co-ownership of the new object to the amount of the proportion resulting from the invoice value of the retained-title goods to the value of the other processed or combined item at the time of processing or combination.

If our goods are combined with other movable objects to form a unified object, or if our goods are inseparably combined with these, and if the other item shall be viewed as the main object, our partner shall transfer proportionate co-ownership to us, insofar as the main object belongs to him. Our partner shall store the object that is in our ownership or co-ownership on our behalf. For the object which is created by processing or combination, the same applies as for retained-title goods.

In the event of compulsory enforcement measures by third parties in relation to our retained-title goods, to our ceded claims or to any of our other rights of security, our partner shall notify us immediately through surrender of documents necessary for intervention. This also applies to impairments of other kinds.

If the value of the existing securities exceeds the secured claims by more than 20% in all, we shall be obligated, at the request of our partner, to release securities to that amount at our own discretion.

## **§ 13 Material Deficiencies**

The quality of the goods complies exclusively with the technical delivery provisions agreed upon. In instances where we are to supply goods according to the drawings, specifications, or samples, etc. provided by our partner, our partner shall assume the risk of adapting the goods to the intended purposes. Decisive in determining whether the condition of the goods meets that stipulated in the contract is the time when the risk is transferred, as specified in § 10.

We shall accept no liability for those material deficiencies which arise due to unsuitable or improper use, faulty assembly or operation on the part of our partner or any third-party, or due to normal wear and tear, faulty sizing (insofar as the development of the parts was not our responsibility), or faulty or negligent treatment. We shall also accept no liability for deficiencies arising from improper modifications or remedial work undertaken by our partner or a third party without our consent. The same applies to deficiencies which lower the value or the suitability of the goods in a minor way only.

The statutory limitation of claims relating to material deficiencies complies with the law (§ 17), insofar as no other arrangement is agreed upon.

If acceptance of the goods or a first article inspection has been agreed upon, any complaint of deficiencies is excluded in cases where the partner would have been able to determine the fault through careful inspection of the goods upon acceptance or upon careful first article inspection.

We shall be given the opportunity to establish the deficiency for which there is a complaint. Goods about which there have been complaints shall be returned to us immediately upon request; we will assume the transport costs if the notice of a defect is justified. If our partner does not fulfill these obligations or undertakes changes to the goods about which there have already been complaints without our consent, he will lose any claims relating to material deficiencies.

In the case of a justified notice of a defect made within the agreed deadline, it shall be left to our discretion whether to make improvements to the goods about which there have been complaints or to deliver a fault-free replacement.

If we are unable to fulfill these obligations, or if we are unable to fulfill them as per contract within a reasonable time period, the partner may set us a final period in writing within which we must fulfill our obligations. If this deadline is not observed, our partner may demand a price reduction, rescission of contract, or he may carry out the necessary improvements himself or have these carried out by a third party at our cost and risk. Reimbursement is excluded if the expenditure increases because the goods were taken to another location following our delivery, unless this complies with the intended use of the goods.

Separate agreements as to the investigation and the taking over of any costs incurred by our partner and resulting directly from material deficiencies must be made in writing by the contractual partners. Such agreements must reflect such part of the costs in fact incurred by partner, a reasonable amount of such costs and must make it feasible for us to cross-check any amounts asserted by partner.

## **§ 14 Other Claims, Liability**

Insofar as nothing else arises from that outlined in the following, any other claims of our partner against us that go beyond the above are excluded. This applies particularly to claims for damages due to breach of duties from the contractual obligation and from tort. We are therefore not liable for damage which does not occur to the delivered goods themselves. Above all, we are not liable for lost profits or other pecuniary damage suffered by the partner.

The above-mentioned limitations of liability are neither applicable in the case of intent, gross negligence on the part of our legal representatives or management, nor in the case of culpable infringement of essential contractual obligations. In the case of culpable infringement of essential contractual obligations, we are liable – except in instances of intent or gross negligence on the part of our legal representatives or management – only for damage that is reasonably predictable and typical for the contract.

The limitation of liability shall also not apply in cases in which we are liable under the Product Liability Law for defects to the supplied goods resulting in personal injury or damage to privately used objects. The limitation of liability shall also not apply in cases of injury to life, limb, or to health, nor does it apply to matters which have been expressly warranted in order to protect our partner against losses not incurred on the delivered goods.

Where our liability is excluded or limited, this is also valid for the personal liability of our white-collar staff, workers, employees, legal representatives, and vicarious agents.

The legal stipulations relating to burden of proof remain unaffected.

### **§ 15 Industrial Property Rights**

We are liable to ensure that if our deliveries are used in accordance with the contract no rights of third parties are infringed in the country of the location of delivery. If a third party claims against our partner in this respect we are – in case of fault on our side – obliged to indemnify our partner against such claims. Our partner is however not entitled without our prior written consent to enter into any agreements with the third party or in particular to enter into a settlement. We have a corresponding indemnity claim against the partner to the extent that the goods supplied were produced by us fully in accordance with the drawings, models or other specifications submitted to us by the partner and we did not know or could not be expected to know that this infringes industrial property rights of third parties.

### **§ 16 Force Majeure**

Force majeure, industrial action, unrest, official action, absence of deliveries from our suppliers, and other unforeseen, inevitable, and grave events release a party to the contract from the obligation to perform the contract for the duration of the disruption and to the extent of the effects thereof. This also applies if these events commence at a time when the party to the contract who is affected is in arrears, unless he has caused the arrears willfully or through gross negligence. The parties to the contract are obligated to provide the necessary information immediately as far as is reasonably possible, and to adapt their obligations to the altered circumstances in good faith.

### **§ 17 Place of Performance, Place of Jurisdiction and Applicable Law**

Insofar as the confirmation of order states no different, our place of business is the place of performance.

For all legal disputes, including those within the framework of proceedings relating to bills of exchange and checks, our place of business is the place of jurisdiction. We also have the right to take legal action at the place of business of our partner.

The contractual relationship shall be subject exclusively to the laws of the Federal Republic of Germany.

The application of the United Nations agreement of 11th April 1980 concerning contracts relating to the sale of goods (CISG - "Vienna Sales Convention") is excluded.