



General Terms of Payment and Delivery

SGF GmbH & Co. KG

1. Scope

Unless otherwise expressly agreed for individual transactions, for all sales, deliveries and other services executed or rendered by enterprises of SGF GmbH & Co. KG for other companies, solely the following conditions shall be applicable.

Alternative stipulations or customer's acknowledgements referring to his own terms and conditions shall only be binding for us with our express written acceptance.

2. Conclusion of the contract, scope of delivery

2.1 Our offers are without engagement. Orders are deemed to have been accepted when we have confirmed the order in writing or when we render the service.

2.2 Subsidiary agreements, warranties and other agreements shall only be effective with our express written confirmation.

2.3 Any reference to standards, similar technical regulations, other information, descriptions and illustrations of our services in offers, brochures and other documents are for descriptive purposes of the service and do not provide any legal warranties. Properties cannot be deemed to have been warranted without our express written acceptance.

2.4 Order call-off, modifications or additions thereof must be issued in writing; telefax or e-mail shall suffice.

2.5 Unless maximum and minimum permissible variation is expressly stipulated in the order acknowledgement, variation in line with customary tolerances and publicly known DIN regulations shall be admissible. For standardized goods the tolerances indicated on the standard specification sheets are binding. We reserve the right to technical modifications in the production process in as far as they do not affect adversely and are reasonable.

3. Prices

3.1 All prices are ex works (freight prepaid acc. to INCOTERMS) and subject to change plus customary packaging, transport and turnover tax. Prices stated in an offer are binding for 30 days. For small order quantities below a net value of the goods of 50,00 € we charge a small-volume markup of 50,00 €. For small-volume orders with a net value of the goods between 51,00 € and 99,00 € the remaining difference of the markup, rounded up, shall be added to reach total of 100,00 € net.

3.2 If freight, insurance or public duties and charges (e.g. import or export fees, customs duties) are introduced after conclusion of the contract, we shall be entitled to add such additional charge to the agreed sales price, even if freight or duty paid had been agreed for the delivery.

3.3 We may include increases for material procurement, especially raw material, labor and ancillary labor cost and energy cost into our sales prices, if at least a four months period is between conclusion of the contract and delivery.

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4. Delivery periods

- 4.1 Binding delivery terms and dates must be agreed expressly and in writing. The period begins with customer's receipt of the order acknowledgement, however not before all details concerning the execution of the order have been clarified and all other specifications to be submitted by the customer, especially documents, approvals and releases, and agreed down-payments, have been received. The period shall be extended by reasonable time if stipulations of the contract are modified or complemented or if the customer does not comply with his obligation to co-operate in due time or form.
- 4.2 Deliveries before the expiry of the delivery date shall always be permissible. The date of the announcement of readiness for delivery shall be deemed date of delivery. We are entitled to carry out reasonable partial performance and deliveries against separate invoice that must be paid separately.
- 4.3 If we are in arrear with delivery, the customer shall extend the delivery term by at least 2 weeks, unless such extension is dispensable according to legal regulations. After fruitless expiry of this respite, the customer shall be entitled to withdraw from the contract, unless the announcement for readiness is made within this respite. Claims for indemnification of damage or expenses for whatever reason can only be asserted pursuant to the stipulations of item 11.
- 4.4 As long as customer is behind schedule with the performance of his obligations toward us, also of obligations from other contracts, we shall not fall behind schedule.

5. Self-supply proviso, acts of God and other obstructions

- 3.1 In case of Acts of God, including cases where our own supplier does not at all or not properly supply in a timely manner due to events that fall beyond his control, we shall be entitled to expand the delivery term by the duration of the obstruction or to cancel the outstanding part of the contract in whole or in part. We shall immediately inform the customer about the occurrence of such circumstances. We shall immediately return customer's consideration, as far as rendered. Acts of God are: lock-out, strike, government orders, raw material shortage, transport bottlenecks, disruptions to operations and any other obstacles, which are not, from an objective point of view, brought forth by us by culpable action. The preceding stipulation also apply, if the circumstances described occur after we have fallen behind schedule.

The obligation to immediately notify the customer and the recompense of considerations received is regulated by § 308 subsect. 8 German Civil Code.

- 3.2 In case we exceed a binding delivery date/period due to events as described in 5.1, the customer is entitled to request us to declare within two weeks time whether we intend to cancel the contract or to render the contractually agreed service within a reasonable respite. Our failure to do so shall entitle the customer to withdraw from the outstanding part of the contract.

6. Dispatch and passing of risk

- 6.1 The goods are to be collected from SGF's factory. All shipments made by SGF shall be at customer's risk. Transport insurance shall only be provided upon customer's request and at his cost. Unless otherwise agreed in writing, we reserve the right to choose the most adequate means of transport and route. If damage occurs during transit this shall have to be recorded immediately on the delivery note and confirmed by the freight carrier. In case of transport by Federal Rail or by Federal Mail, damage in transit shall have to be assessed by an official of the Federal Railways or Mail.

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- 6.2 All risk of peril shall pass on to the customer no later than when the goods are handed over to him.
- 6.3 Goods that have been announced ready for shipment and goods that are due for shipment shall have to be called for immediately. If customer fails to collect goods that are ready for shipment without delay we shall be entitled to dispatch the goods at our own option or place them into stock at customer's cost and risk.
- 6.4 On principle, goods ordered and duly delivered are non-returnable.

7. Notice of defect

The customer or any receiver as may be designated by him shall inspect the goods immediately upon receipt and if need be check in a trial operation whether they are suitable for the intended purpose. Apparent defects – including absence of legally binding property descriptions – shall be reprehended in writing immediately, or within three working days upon receipt of the goods at the latest. Hidden defects shall be reprehended in writing immediately, or within five working days upon discovery at the latest. Customer's failure to give notice of the defects in due form and time shall constitute acceptance and approval of the goods. A complaint shall be deemed to be within the time limit, if the point of time when we receive the notice of defect lies within the agreed period.

8. Liability for defects

- 8.1 If a complaint is justified, we shall be obligated to supplementary performance, at our own option either by delivering flawless replacements or rectification, whereas property of the claimed parts shall be passed on to us. We are entitled to refuse supplementary performance under the legal requirements. If a complaint is not justified, we are entitled to charge all cost resulting from this to customer's account.
- 8.2 Our failure to meet our obligation to supplementary performance shall entitle the customer to withdraw from the contract or to reduce the price after a reasonable respite at his own option, unless such respite is dispensable according to the statutory regulations. If the customer rescinds the contract, he shall be liable for deterioration, perishing and loss of usage, not only for the customary due diligence used in own matters but also for any case where he is held responsible.
- 8.3 Customer shall grant us a reasonable amount of time and opportunity to determine the defect and to carry out the necessary supplementary performance. We may request to return claimed goods to us.
- 8.4 Any further claims pertaining to indemnification or expense allowance customer may have owing or related to defects or damage, for any legal reason whatsoever, are excluded unless in line with the stipulations under section 11. In this case we shall, however, only be liable for typical and foreseeable defects.
- 8.5 Our liability for defects shall not be applicable for unjustifiable defects, especially defects due to infringement of operating, maintenance and assembly instructions, improper usage, improper or careless treatment, natural wear and tear, customer's or third party's intervention into the article of sale, or the use of non-proprietary spare parts.
- 8.6 Claims based on liability for defects against us become statute-barred twelve months after hand-over or reception of the goods at the latest. The period of warranty towards the consumer shall remain unaffected.

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- 8.7 In case of fraudulent concealment of a defect or if we have accepted binding warranties for product properties, the customer's claims shall be determined solely according to the legal regulations.
- 8.8 Furthermore we assume no liability for warranty or guarantee if the ordered goods are of second quality and this was expressly shown in the order acknowledgement. SGF GmbH & Co.KG use "-0" at the end of the article description as a mark of distinction of parts with optical faults. The workers only carry out a visual inspection to check for serious defects. When ordering articles of second quality the customer accepts this waiver.

9. Terms of payment

- 9.1 Payments shall be effected on the due date shown on the invoice without deduction. In the absence of a due date, payment is to be made within 30 days net, unless otherwise agreed in writing. Payment date shall be the date when we have access to the money.
- 9.2 Bank drafts shall only be accepted on the basis of special agreement.
- 9.3 If customer fails to comply with his terms of payment or if we become known of circumstances, which according to our best judgment give rise to justified doubt in the customer's creditworthiness, such as facts that were existent but not known to us at the time of conclusion of the contract, we shall be entitled notwithstanding any further rights to request from customer advance payment for outstanding deliveries or provision of reasonable security as we may deem acceptable. After fruitless expiry of reasonable respite we shall be entitled to rescind the contract or to claim damages. Furthermore we shall, at discretion, be entitled to interdict the resale or processing of goods belonging to us in whole or in part and to request from customer to return the goods to us or to procure co-ownership at customer's cost.
- 9.4 The customer shall only be entitled to retain or set-off counterclaims that are not contested or finally determined by court decision.

10. Retention of title

- 10.1 We reserve the right of property in goods delivered by us until all outstanding payments (mature or immature) resulting from our ongoing business relation with the customer has been settled. This applies likewise for a balance in our favor, if individual or all claims are included into one current account and the balance has been struck.
- 10.2 Customer shall provide sufficient insurance for the reserved goods, in particular against fire and theft. Customer shall assign to us any rights from the insurance policy related with a damage to the reserved goods in the amount of the value of the reserved goods with immediate effect.
- 10.3 Treatment and processing of reserved goods shall be effected for us as manufacturers in terms of sect. 950 BGB (German Civil Code), however without legal obligation to us. In case our goods are processed or intrinsically tied to other third-party property, we shall acquire co-ownership in the new matter in relation of the invoiced value of our goods to the invoiced values of the other processed or mixed goods. In case our goods are joined with other movable goods into one integrative matter, which shall be deemed to be the main matter, customer shall assign to us the co-ownership thereof in the same ratio with immediate effect. Customer shall keep the property or jointly owned property free of charge for us. Co-ownership rights emerging there from are deemed to be reserved goods. Customer shall provide all information necessary to pursue our ownership and co-ownership rights, if we request so.

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- 10.4 Customer shall be entitled to resell the goods delivered by us in the due course of his business relations. No other provisions or concessions of equitable liens shall be accepted. If the customer resells the reserved goods and the third party fails to pay promptly, the customer shall reserve the right to title of the goods.
- 10.5 The customer cedes all such claims including securities and ancillary rights to us with immediate effect, as may arise from resale of reserved goods against the ultimate customer or third parties. No agreements with customer's customer shall be permissible which bar or prejudice our rights in any way whatsoever or which nullify the assignment in advance of future claims. If the reserved goods are resold together with other goods, the claim against the third party shall be ceded in the amount of the price agreed between the customer and SGF, unless the individual prices can be taken from the invoice.
In the event of resale of co-ownership as reserved goods the claim resulting from the resale shall be deemed ceded to us in the amount of our co-ownership.
- 10.6 The customer shall remain entitled to collect the claims assigned to us, unless we declare our revocation for this. If we request so, the customer shall provide all information and documents required for the collection of assigned claims and immediately notify his customers of the assignment.
- 10.7 If the customer includes claims resulting from the resale of reserved goods into an existing current account relation with his customers, he shall cede to us with immediate effect any resulting accredited balance in his favor in the amount of the total value of all claims from the resale of our reserved goods included into the current account.
- 10.8 Customer shall immediately inform us, if he has already assigned to third parties claims resulting from the resale of goods delivered or to be delivered by us, especially on the basis of factoring with or without recourse, or if he has made other agreements with prejudice to our current or future security rights acc. to sect. 10.. In case of factoring without recourse we shall be entitled to rescind the contract and to request the return of goods that have already been delivered. The same applies to factoring with recourse, if the customer cannot freely dispose of the purchase price for the account receivable because of a contract with the factor.
- 10.9 In case the customer acts contrary to the terms of this contract, especially if he fails to pay in a timely manner, we shall be entitled to rescind the contract. In this case, the customer shall be bound to return the goods immediately. Customer shall grant us access to his business premises at the usual business hours in order to determine the stock of goods delivered by us. Customer shall immediately inform us about any access of third parties to goods sold under reserve or to accounts receivable ceded to us.
- 10.10 If the value of the securities intended for us according to the preceding stipulations exceeds the total of the secured accounts receivable by more than 20%, we shall insofar be bound to release securities at our own option upon customer's request.

11. Exclusion and limitation of liability

- 11.1 For all claims for damages and expenses against us due to justified infringement, on whatever legal grounds, in the event of slight negligence our liability shall be limited to breach of duty imperiling the purpose of the contract. In all other cases, our liability for slight negligence is excluded.
- 11.2 If we are liable acc. to sec. 11.1 and liable regardless of fault, our liability shall be limited to typical and foreseeable damage. No assertion of useless expenditure by customer shall be accepted.

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- 11.3 In case of delay due to slight negligence we shall be liable in the amount of the net invoiced value.
- 11.4 The customer shall have the right to determine the usage of our goods on his own authority. Unless we have agreed special specifications for our performance within the framework of this contract in writing, any form of advice given by us relating to the operation and use of our goods is noncommittal. Such advice is only intended to explain the best possible use of our goods and shall not relieve the customer of his duty to carry out his own tests to determine the appropriateness of our goods for his intended purpose. Pursuant to sect. 11.1-11.3 we shall only be liable for providing or failure to provide advice.
- 11.5 The exclusion of liability acc. to sect. 11.1-11.3 shall apply to the same extent for our organs, legal representatives, executives and non-executive staff and agents.
- 11.6 The stipulations of sect. 11.1-11.4 shall only apply in case we have accepted a warranty for agreed specifications or we intentionally misrepresented a deficiency by silence, insofar as claims are made against us according to the Product Liability Act, when we are liable for threat of life, bodily harm or health hazard.
- 11.7 All claims based on damages become statute-barred 12 months after delivery of the goods or acceptance thereof, in the case of tortuous liability as of the date acquisition of knowledge or the grossly neglected ignorance of the cause of the claim. This shall not apply for deliberate act and the circumstances described under 11.6
- 11.8 If the ultimate customer of the goods is a consumer, the legal regulations concerning the limitation period of a possible recourse action of the customer against us shall apply.

12. Copyright protection, utilization right for software

- 12.1 The customer may not use documents, drawings as well as all constructive input from us other than for the intended purpose. Any form of disclosure to third parties or public dissemination without our prior agreement is prohibited. Copies may only be made for the purpose of archival storage or replacement. If an original document is specially marked with a reference to copyright protection, this reference shall have to be stated on the copy as well.
- 12.2 The customer shall be granted a non-exclusive and non-transferable license to use the programs and the related documentation made available to him, in relation with the products for which the software was delivered.
- 12.3 No modification of the marking of our goods, especially removal of our device number or type plates, as well as special marking that might be interpreted as being our customer's or third parties' origin specification shall be permissible.
- 12.4 We are not liable for the liberty of trademark rights of third parties, if goods were developed according to customer's specification, or if the use of our goods in combination with goods not supplied by us resulted in an infringement of an industrial property right. Furthermore, our liability is excluded for infringements of property rights caused by customer's use of our product without our knowledge. In all other cases, we shall be liable according to section 11.

13. Court of jurisdiction, applicable law

- 13.1 Exclusive jurisdiction for all disputes shall be the court of the place of business where the involved enterprise of SGF GmbH and Co.KG is located. We are, however, entitled to bring an action against the customer at his place of general jurisdiction.

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13.2 Any legal relations between the customer and us shall exclusively be governed by the laws of the Federal Republic of Germany. The stipulations of the United Nations Convention on Contracts for the International Sale of Goods (CISG) are not applicable.

14. Severability

If any term or provision of this contract shall to any extent be held invalid or unenforceable, the remaining terms and provisions of this contract shall not be affected thereby, but each term and provision of this contract shall be valid and be enforced to the fullest extent permitted by law.

15. Priority of the German version

In the event of a dispute the German version of the present General Terms and Conditions of Sale, Payment and Delivery shall have precedence.