

TERMS AND CONDITIONS FOR DELIVERY AND PAYMENT OF THE COMPANY GRAMMER AG

1 Scope

Our deliveries and services are provided exclusively on the basis of the terms and conditions set out below. The Customer's terms and conditions shall only apply if expressly accepted by us in writing.

2 Offer, Conclusion of the Contract

2.1 Once contract negotiations are initiated the Customer shall inform us in writing about special requirements of the deliveries with respect to their quality and purpose as well as about other risks that might arise when being used by the Customer.

2.2 If we provide the Customer with drawings, cost estimates and other documents in respect to the offer we shall be entitled to retain ownership of and copyright to all of these items. These shall not be made available to third parties without our express consent.

2.3 We shall not be liable for defects resulting from performance data or other incorrect or incomplete information, including technical information, submitted by the Customer.

2.4 Orders, amendments and additions to the contract as well as ancillary agreements must be made in writing. For the establishment of a contractual relationship, orders need to be confirmed by us.

3 Prices, Payments, Set-off

3.1 Our prices are ex factory and exclude freight and shipping costs, customs expenses, insurance and other ancillary expenses. Value-added tax is not included in the price and will be invoiced in the legally due amount.

3.2 Payments must be made in cash within 30 days from the date of the invoice net to one of our bank accounts. Agreed payment terms shall only be deemed met, if the amount payable is available to us on the due date. Bills of exchange shall only be accepted as means of payment if agreed upon with us in advance. Exchange charges shall be borne by the purchaser.

3.3 We shall be entitled to charge interest for late payment by the purchaser in the amount of 8 percentage points above the applicable statutory base interest rate. We reserve the right to raise additional claims for damages.

3.4 If, after conclusion of the contract, the amounts due to us turn out to be jeopardized by the Customer's inability to pay and if we are obligated to provide advance services, we shall be entitled to refuse performance of our services and grant a reasonable term to the Customer by which he shall effect payment against our delivery or provide security. If the Customer fails to meet this term, we shall have the right to withdraw from the contract and claim damages.

3.5 Set-off by the Customer is excluded, unless the claims are legally established, have reached a stage permitting final judgment or remained unchallenged.

3.6 Price changes are permitted if more than four months lie between the date of conclusion of the contract and the agreed delivery date. We shall be entitled to raise the price by a reasonable amount according to the increases in costs, if wages, material costs or market cost prices go up after this period of time but before completion of the delivery. The Customer shall be entitled to withdraw from the contract only if the price increase not only insignificantly exceeds the increase in the general cost of living between the time the order was placed and the goods shipped.

4 Delivery

4.1 We shall be entitled to reasonable part-deliveries.

4.2 In case of custom-made products, excess or short deliveries up to 10 % over or under the established quantity are admissible and will be taken account of in the invoice.

4.3 Changes in design or shape attributable to legislative requirements will be subject to reservation during the delivery time. If these changes alter the agreed character of the manufactured goods, we will immediately notify this to the Customer.

5 Terms, Deadlines, Default

5.1 The agreed delivery periods and call-off deadlines are only kept upon the Customer's timely submission of documents, approvals and authorizations requested from him and his compliance with the agreed terms of payment and other obligations. If these prerequisites are not met in time, the terms and deadlines shall be extended appropriately, on condition that we are not responsible for the delay. Furthermore, the delivery period is met if we have informed the Customer before its expiration that the delivery is ready for shipment or has left the plant.

5.2 If non-compliance with terms or deadlines is attributable to force majeure or the occurrence of other unforeseeable impediments beyond our sphere of control, as e.g. strikes or lockouts, they shall be extended appropriately.

5.3 If we are in default with a delivery, the Customer shall have the right to withdraw from the contract upon the expiration of a reasonably additional period of performance extended to us insofar as we have not shipped the delivery or parts thereof within this additional period. In this case, he shall have the right to withdraw from the contract with respect to the outstanding part-delivery. In case of part-deliveries, the Customer may withdraw from the entire contract only if due to the default he cannot make intended use of the part-delivery.

5.4 Claims for damages due to default are excluded unless we have caused them by intent or gross negligence. In case of minor negligence, liability shall be limited to foreseeable, typically occurring damages.

5.5 In case of call-off agreements entered into before an agreement upon manufacturing and acceptance deadlines was reached, we shall be entitled to request a binding determination of deadlines if three months have passed since the intake of the order without the purchaser having notified any deadlines to us. If he fails to comply with this request within two weeks of receipt of the corresponding written request, we shall be entitled under the threat to refuse performance to set him a reasonable additional period for determining the deadlines and upon its unsuccessful expiry to rescind the contract and claim damages for any damage incurred by us. The same applies if the purchaser does not or not in the full amount call off the delivery quantities agreed upon in call-off agreements.

6 Passing of Risk, Shipment

- 6.1 The risk passes to the Customer upon delivery of the item to be delivered to the forwarder, freight carrier or any person or organization otherwise specified for carrying out the shipment, whether part-deliveries are being carried out or the Customer has agreed to pay the costs for delivery, transport or other services. Upon the Customer's express request, we will insure the goods at his expense against theft, transport damage and other damages.
- 6.2 If the shipment is delayed due to circumstances for which the Customer is responsible, the risk shall pass to the Customer as of receipt of the notification of readiness for shipment.

7 Retention of Title

- 7.1 We retain our title to delivered items (reserved goods) until all of our current claims arising out of business dealings between us and the Customer as well as future claims, insofar as they are related to the delivered items, have been fulfilled.
- 7.2 The Customer shall properly store the reserved goods. If he does not prove to have taken out an insurance policy, we shall be entitled to insure the reserved goods at his expense against theft, breakage, fire, water and other damages that might occur during storage.
- 7.3 The Customer has the right to resell the reserved goods owned by us in the proper course of his business. However, he shall assign to us already at this point the claims including all ancillary rights against his customer arising from this resale until all of our demands are completely settled, regardless of whether the reserved goods are resold before or after being processed or installed or not. If the reserved goods are resold upon their installation after being processed or together with other goods that do not belong to us, the Customer's claim to his customers shall be deemed assigned to us in the amount of the price agreed between him and us.
- 7.4 The Customer shall be authorized to collect his claims even after they have been assigned to us. This shall not prejudice our right to collect the claim ourselves, however, we undertake not to do so as long as the Customer properly fulfils his payment obligations. If the Customer makes use of his right to collect outstanding debts, we shall be entitled to the collected revenue in the amount of the delivery price agreed upon between him and us with respect to the reserved goods.
- 7.5 Any processing or transformation of the reserved goods is performed for us as manufacturer within the meaning of Section 950 BGB (German Civil Code), without binding us. The processed goods are considered as reserved goods within the meaning of point 7.1. If the reserved goods are processed or combined with other goods by the Customer, we shall have joint ownership of the new product in proportion to the invoice value of the reserved goods. If our ownership expires through combination, processing or mixing, the Customer shall transfer to us already at this point his ownership rights to the new product in the amount of the invoice value of the reserved goods and shall hold them in custody for us at no charge. The joint ownership arising in this connection shall be considered as reserved goods within the meaning of point 7.1. The Customer shall hold the new product in custody for us with due diligence at no charge.
- 7.6 The Customer shall notify us immediately of all interventions by third parties, in particular measures of execution and other impairments with respect to our ownership. He shall reimburse us for all damages and costs resulting from the infringement of this obligation and shall pay all costs incurred by measures made necessary to fend off third party interventions.
- 7.7 We shall release the securities to which we are entitled upon request to the extent their value exceeds the claims to be secured by more than 20 %.
- 7.8 If we accept bills of exchange as means of payment, our retention of title shall continue to have legal effect until it is established that we may no longer be subject to claims arising out of this bill of exchange.

8 Tools

- 8.1 We retain title with respect to tools manufactured by us until they are fully paid.

9 Complaints

- 9.1 The Customer shall report complaints immediately in writing and in detail. Obvious defects shall be reported within five working days of receipt of the goods.

10 Rights in Event of Defects

- 10.1 The quality owed to the Customer is determined by the agreement entered into with him or the characteristic features specified by us as well as the general purpose of use. If we are to deliver according to the Customer's individual drawings, specifications or samples, the Customer shall be responsible for the suitability of the delivery for the intended purpose. Natural wear and tear as well as damages due to improper operation do not constitute such rights.
- 10.2 If a complaint was raised on justified grounds, we will ensure correct performance by either delivering a substitute product or by reconditioning the defect product, at our own choice. If we do not or fail to perform our duties in this respect within a reasonable period, the Customer shall have the right to claim a reduction in price or in case of a significant infringement of our duties withdraw from the contract. If only parts of the delivery are defective, the Customer shall only be entitled to claim remedying the defective part of the delivery, unless the Customer cannot make use of the part-delivery.
- 10.3 Upon his notification the customer shall give us the time and opportunity necessary to perform all measures required for remedying the defect, otherwise we shall not be liable for the defect. Only if the Customer's operational security is endangered or in order to prevent disproportionately large damages he shall be entitled upon having conferred with us to remedy defects himself or have them remedied by skilled third parties.
- 10.4 The Customer's claims with respect to these defects become barred by limitation after 12 months, unless a limitation period of five years is provided by statute, claims to rescind the contract are raised against us because of the defectiveness of our delivery emerging in respect of the sale of consumer goods or if harm was intentionally caused to life, body, health or we fraudulently concealed a defect or guarantees have been taken over.

11 Claims for Damages in Respect of Defects, Other Damages, Product Liability

- 11.1 The Customer shall be entitled to other claims subject to the rules laid down by law, in particular claims for damages, claims arising out of impossibility of performance, violation of duties of care or delictual product liability, only if we did not comply with guarantees given with respect to the character of goods, have acted fraudulently, persons were injured or in case any other damage has been caused by us, one of our legal representatives or vicarious agents intentionally or by gross negligence, or if such damage was the result of any significant breach of

duty. Unless we have acted intentionally, our liability shall be limited to foreseeable, typically occurring damages. The period of limitation for claims for damages due to defects is determined according to point 10.4.

- 11.2 We shall be liable for damages to the Customer caused by product defects in our deliveries based on delictual product liability exclusively according to point 11.1 of these Terms and Conditions subject to the rules of limitation laid down by law. Further claims of the Customer based on delictual product liability are excluded.

12 Liability for Infringements of Property Rights

If the Customer prescribes to us how to manufacture the goods to be delivered by providing us with specific details, documents and drawings, he shall be responsible for ensuring that by fulfilling our contractual obligations we do not infringe third parties' rights, such as patents, utility models as well as other property and copyrights. The Customer undertakes to hold us harmless and indemnify us for all claims third parties may assert in relation to such infringements.

13 Place of Performance, Jurisdiction, Applicable Law

- 13.1 The place of performance is our company's seat in Amberg/OPf.

13.2 The courts of Amberg/OPf. shall have jurisdiction, if the Customer is a merchant within the meaning of the German Commercial Code (Handelsgesetzbuch "HGB") or a public legal entity. However, we shall be entitled to file proceedings against the Customer in his general jurisdiction.

- 13.3 The law of the Federal Republic of Germany shall be applicable in addition to the provisions of the contract. Applicability of the United Nations Convention on Contracts for the International Sale of Goods of 11 April 1980 is excluded.

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