

General terms of sale and delivery

Battenfeld

Innovative Injection Molding

1. Applicability

1.1 These General Terms constitute an essential and integral part of the Agreement and shall be applicable unless the Parties to the Agreement have expressly agreed on other terms in writing. Customer's General Terms shall apply - irrespective of whether they deviate from these present Terms - only in the event that we have expressly assented thereto in writing.

1.2 The following terms with respect to the delivery of goods shall apply equally and analogously to the provision of other services.

1.3 These Terms shall also apply in particular to the delivery of spare parts and to deliveries of goods that are effected under warranty, etc.

1.4 Installation and assembly work carried out by us shall also be governed by our supplementary Terms of Installation and Assembly.

1.5 Any change of, or deviation from, these present General Terms of Sale and Delivery shall be valid only with our express written consent. Insofar as Customer's terms should contradict these our Terms, they shall apply only if and insofar as we have expressly acknowledged them in writing.

1.6 Any promises made, or terms agreed to, by our employees shall be legally valid and binding only when confirmed by our company's Management.

2. Conclusion of Agreement

2.1 The Agreement shall be concluded when we send the Customer a written Confirmation of Order, which shall alone specify the scope of the order and its fulfillment. Ancillary terms shall be valid and effective only when confirmed by us in writing.

2.2 Our offers are submitted without obligation. We reserve the right to sell goods without prior notice.

2.3 Diagrams, dimensioned drawings, and similar illustrations submitted with our offers are approximations only and do not oblige us in any manner. We reserve the right to make any changes that we deem necessary at any time.

2.4 The Customer shall, prior to the conclusion of the Agreement, inform us of statutory, official and any other regulations that relate in particular to the execution of delivery, the installation and assembly of the goods, their operation; to health and safety at work; to foreign-exchange controls with regard to export and/or import transactions; and in general inform us of any and all regulations that may delay or impede the delivery of the goods, and the Customer shall procure all necessary permits and licences in due time, failing which the legal consequences stipulated in Sect. 12.5 and 12.6 of these present Terms shall take effect.

3. Drawings and Documents

3.1 Offers, project plans, and drawings, descriptions, illustrations etc. pertaining thereto are our intellectual property and shall neither be duplicated or copied by any method or process, nor made available to third parties in any manner; and they shall not be used to produce any goods or components thereof without authorization. They shall be returned to us immediately upon request if the order is not fulfilled.

4. Prices

4.1 Unless otherwise agreed, our prices are quoted for delivery ex works. They do not include the costs of packing, freight and freight insurance, and installation or assembly; these costs will be charged separately. Unless otherwise indicated, our prices do not include value-added tax.

4.2 Taxes, fees relating to the Agreement, stamp duties, export, import, and transit duties, discount interest, customs duties and fees, official commission fees and similar charges shall be borne by the Customer.

4.3 Should the rate of exchange of the currency specified in the invoice change with regard to the Euro - in particular, as a result of de- or revaluation - then the purchase price shall be calculated on the basis of the rate of exchange applying on the date that the Agreement was concluded.

5. Terms of Payment

5.1 All payments shall be effected according to the Agreement, i.e. in the currency stipulated in our offer or the order confirmation, to the credit of our account with the bank specified in the order confirmation or invoice. Any payment to one of our commercial agents or agencies shall be deemed effective only with our express consent.

5.2 Unless otherwise agreed in writing, one half of the purchase price shall be due and payable by the Customer upon receipt of the order acknowledgment, and the other half upon notification that the goods are ready for shipment.

5.3 The date of payment is defined as the date on which the payment is credited by the bank specified by us.

5.4 The Customer shall not be entitled to withhold payments or to offset any sums on the grounds of any claims he may have under warranty or otherwise - including claims arising from other transactions - unless such claims have been adjudicated or recognized by us.

5.5 Should the Customer be in arrears with an installment where a credit in the amount of the purchase price was granted, then the entire balance still outstanding shall become due and payable immediately (forfeit of payment by installments).

6. Retention of Ownership (Legal Title)

6.1 We shall retain ownership of any goods delivered by us until such time as all our accounts receivable as a result of our business transactions with the customer have been paid in full. The Customer shall be obliged to comply with the requisite formalities to uphold our retention of ownership. Should our goods become the object of a seizure or attachment, the Customer shall assert our ownership thereof and notify us immediately.

6.2 If, when goods are delivered abroad, statutory laws of the country where the machines are located govern the retention of ownership, the Customer shall be obliged to take every step necessary to legally assert our retention of ownership (e.g. by attaching marks, effecting entry in public registers, or similar measures). If the laws of the country in which the delivered goods are located do not allow a retention of ownership, but do permit us as the Seller thereof to reserve other rights with regard to such goods, then we shall be entitled to exercise any and all such rights. Should the Customer fail to fulfill his obligation under this clause, then we shall be entitled either to withhold undelivered goods until the Customer provides proof that he has fulfilled his obligation, or to rescind the Agreement immediately with the legal consequences stipulated in Sect. 12.5 and 12.6 of these present Terms.

7. Deadline for Delivery

7.1 The deadline for delivery shall be reckoned at the earliest from the date on which the Agreement has been concluded, all official formalities - such as procurement of import permits or currency transfer permits - have been completed, all contractually due payments have been effected and any securities required have been furnished, and all essential technical details have been agreed upon. The deadline shall be deemed to have been met if the goods are ready for shipment ex works by the date of said deadline. Should the goods be inspected for acceptance in our works, then the date on which notification that the goods are ready for inspection is sent to the Customer shall be deemed to have met the deadline.

7.2 The aforesaid deadline shall be prolonged:

7.2.1 if data that we require in order to fulfill the order are not provided in due time or are subsequently modified or altered by the Customer;

7.2.2 if impediments arise that are beyond our control, irrespective of whether they originate within the Customer's sphere of operations or that of a third party. For example: epidemics, mobilization, war, rebellion; severe disruption of business operations, accidents, labour disputes; belated or faulty delivery of necessary raw materials, semifinished or finished products; scrapping of essential components, administrative measures, and natural phenomena.

7.2.3 if the Customer is in arrears with work to be done by him or with the fulfillment of his contractual obligations - in particular, if he fails to comply with the terms of payment.

7.3 Should any of the circumstances enumerated in Sect. 7.2 above prevail, then the deadline for delivery shall be prolonged by the span of time during which said circumstance prevails. Should an impediment according to Sect. 7.2.2 above last for more than 12 months, both Parties to the Agreement shall be entitled to rescind same by notice in writing, but if the impediment is one according to Sect. 7.2.1 or 7.2.3 above, then we alone shall be entitled to rescind the Agreement. Should circumstances according to Sect. 7.2.1 or 7.2.3 arise, or circumstances according to Sect. 7.2.2 that affect the Customer only, then Sect. 12.5 and 12.6 of these present Terms shall apply analogously. Any payments already made by the Customer shall in no case bear interest. The Customer herewith waives in advance any and all claims for compensation as well as any and all rights to default on his obligations. Sect. 12.4 hereinbelow shall apply analogously.

7.4 We shall be entitled to deliver goods in partial shipments or in advance.

8. Packing

8.1 Unless otherwise agreed, the goods shall be packed in the manner usual and customary in the trade to protect them, under normal conditions, against the effects of the elements.

8.2 Special requests with regard to the packing of the goods must be communicated to us in due time. Such notification shall be deemed to

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be in due time if the request can be satisfied without any delay or difficulty. Should the notification regarding the special manner of packing not be communicated in due time, or should the requested packing entail considerable additional work or expense, then we shall be entitled to refuse the request without any further legal consequence for us; our refusal shall be communicated in writing without delay. Such refusal shall not affect the Customer's obligations to effect due payments on time.

8.3 Unless otherwise agreed, special packing shall be invoiced separately; the packing material shall not be returned to us.

9. Freight and Insurance

9.1 The Customer shall, at his own risk and expense, arrange for the transport of the goods. If the freight carrier is engaged by us at the Customer's request, the Customer shall nonetheless bear all risks and shall be obliged to ensure that the goods are properly secured against shifting, sliding, tipping over, and all other external mechanical forces during the transport from our works to the point of delivery.

9.2 The Customer shall, without delay, register any complaints regarding the transport of the goods with the last freight carrier upon receipt of the goods or the corresponding freight documents. The Customer shall further be obliged to file, without delay, any claims for damage in transport with the freight carrier in accordance with the terms of the contract of carriage or shipment and to notify us of such claim(s) at the same time.

9.3 The Customer shall be obliged to procure insurance coverage in the amount of the value of the goods to be delivered for the shipment from our works to the point of delivery. Should we be contractually obliged to procure such insurance coverage, the costs and risks thereof shall nonetheless be borne by the Customer, and we shall in no case be liable for any damage incurred in transport.

10. Transfer of Risks and Benefits

10.1 Risks and benefits associated with the goods shall be transferred to the Customer no later than the time when the goods leave our works, even if the goods are delivered in partial shipments or if our obligations include further services, e.g. direct delivery and installation by us or the assumption of freight charges.

10.2 Should the goods leave our works belatedly through no fault of ours, then the risks associated with the goods shall be transferred to the Customer on the date on which notification that the goods are ready for shipment is sent to the Customer.

11. Acceptance of the Goods

11.1 The Customer shall, without delay, inspect the goods upon receipt thereof and notify us in writing of any defects; failure to do so will nullify any entitlement to remedies that the Customer may have.

11.2 Should the delivered goods not conform to the specifications of the Agreement of Sale and Delivery, the Customer shall immediately allow us to remedy the fault. We reserve the sole right to determine how and where such remedy shall be effected.

11.3 The Customer shall not be entitled to refuse acceptance of a shipment because it is defective.

11.4 Should the Customer nonetheless refuse to accept such a shipment, then Sect. 373 of the "Österreichisches Unternehmensgesetzbuch" (Austrian code governing corporations and enterprises) and Sect. 12.5 and 12.6 of these present Terms shall apply.

12. Delays in Performance

12.1 Should we be responsible for a delay in the delivery of goods, the Customer shall be entitled to demand that we fulfill our obligations or to rescind the Agreement by written notice if we should fail to deliver within a reasonable period of time. What constitutes a reasonable period of time shall depend in particular upon the scope and nature of the shipment (e.g. whether it comprises made-to-order components, etc.).

12.2 Any claims for damages shall be governed by Sect. 15 of these present Terms.

12.3 Should the Customer rescind the Agreement according to these present Terms, then he shall be entitled to recover his payments to us, exclusive of any interest. In return, he shall be obliged to restate, without deducting or withholding anything by way of compensation, everything that we have delivered under the Agreement. Such reciprocal restitution of goods and payments shall be effected concurrently.

12.4 Should the Customer already have made use of goods contained in a partial shipment and should said partial shipment by itself be usable for him, then said partial shipment shall be excepted in the event that the Customer rescinds the Agreement.

12.5 Should the Customer come into arrears with a payment or default in other obligations (especially one according to Sect. 2.4 and 7.2 hereinabove), then we shall be entitled to demand that he fulfill his obligations and

12.5.1 to postpone the fulfillment of our own contractual obligations until such time as the overdue payment has been credited or the Customer has fulfilled his due obligation;

12.5.2 to extend the deadline for delivery by a reasonable period of time;

12.5.3 to declare the balance of the purchase price still outstanding as due and payable immediately (forfeit of payment by installments);

12.5.4 to charge interest according to Sect. 1333 of the "Österreichisches Allgemeines Bürgerliches Gesetzbuch" (Austrian General Civil Code) as of the date that payment was due, unless the Customer presents exonerating evidence (force majeure, Act of God) for his default; and

12.5.5 to rescind the Agreement if the Customer fails to remedy his default within a reasonable period of time. If the Customer is in arrears with a payment, we can rescind the Agreement with immediate effect.

12.6 Should the Agreement be rescinded according to Sect. 12.5 above, then the Customer shall return to us the goods he has received with due consideration of the depreciation incurred in the interim and shall reimburse us for all expenditures incurred by us - in particular, freight charges, customs duties, fees, travel expenses, design costs, administrative costs, etc. Such expenditures shall also include sums that we had to pay, or still have to pay, to third parties (subcontractors) for the purchase of goods that were part of our shipments. Unless otherwise determined, the depreciation shall in any case amount to 3 % of the purchase price which is apportioned to the goods already delivered. The refund to the Customer shall amount to such payments as he may have made less the deductions aforementioned, and shall not bear interest. Where goods were made to order, we shall be entitled to place these at the Customer's disposal and charge the corresponding amount of the selling price.

12.7 Should we fail to deliver on time in a transaction with a fixed deadline for delivery, then our liability shall be limited strictly according to the terms of Sect. 15.3 hereinbelow.

13. Warranty

13.1 We shall be obliged to repair or replace, at our discretion, as soon as possible any components delivered by us that are defective or unfit for use due to provenly inferior materials, faulty design, or poor workmanship. We reserve the exclusive right to decide how and where we shall remedy any defects. Components that we replace shall become our property. The Customer shall at all times be obliged to prove that an alleged defect of goods delivered by us already existed at the time of delivery.

13.2 Our warranty shall become null and void in the event that force majeure or an Act of God makes it impossible for us to fulfill our obligation. In particular, a closure of our plant - which does not necessarily have to be a consequence of insolvency - shall also be deemed to be a circumstance of force majeure. Any obligation to provide indemnification for damages that exceeds the warranty obligations defined herein shall be governed by the terms of Sect. 15.3 hereinbelow.

13.3 Unless otherwise agreed, we shall bear only those costs that may arise in connection with the repair or replacement of defective parts in our plant or workshops. In the event that we cannot repair or replace defective parts in our plant or workshops for reasons beyond our control - e.g. parts of made-to-order components that differ from parts listed in our catalogue of available items - then all additional costs entailed in connection with such repair or replacement shall be borne by the Customer.

13.4 The Customer shall be obliged to notify us in writing and without delay of any defects encountered, failing which he shall lose all his rights under the warranty.

13.5 The warranty shall be valid for a period of twelve months for single-shift operation and for six months for multiple-shift operation, but shall in no case cover more than 4000 hours of operation. The Customer shall provide proof of the number of hours of operation incurred. In case of doubt, we shall be entitled to presume multiple-shift operation. The warranty period shall commence when the goods leave our works or, if we also supervise the commissioning of equipment, with the termination of same. Should the shipment and/or the commissioning of equipment be delayed and we not be solely responsible for the delay, then the warranty period shall in any case end no later than twelve months after we have notified the Customer that the goods are ready for shipment;

should we alone be responsible for the delay in shipment or performance, then the terms of the preceding sentence in this clause shall apply.

13.6 The warranty period according to Sect. 13.5 above shall not be prolonged - neither by remedy nor by acknowledgment of any defect, even if we replace parts of the main shipment with new parts; the exclusion of such prolongation shall apply to both the main shipment and any replacement parts. After expiration of the warranty period, we shall be liable for hidden defects only if the Customer can prove that we had knowledge of such a defect and, through gross negligence, failed to inform the Customer thereof when the goods were delivered.

13.7 The Customer shall, upon discovery of a defect, return the defective goods or parts - as requested - to us or to a third party named by us for repair or exchange, and the Customer shall bear the costs and risks of such shipment as well as the costs and risks of the shipment of repaired parts or replacement parts to him.

13.8 Our warranty does not cover defects resulting from: natural wear and tear, improper maintenance, failure to follow operating instructions, excessive use or operation, use of raw materials or auxiliary materials that are unsuitable or of a nature that causes more wear than usual, chemical or electrolytic action, improper installation or assembly not carried out by us, and other causes beyond our responsibility. Furthermore, the warranty does not cover negligible defects, i.e. such defects that have no direct and evident effect on the function of components or the quality of the product to be made - in particular, visible imperfections or similar defects. Unless we have agreed otherwise in writing, we shall not bear any liability and give no warranty for parts or components of the plasticizing unit that may be affected if recuperated waste material is processed therein.

13.9 The warranty shall become null and void if the Customer or any third party alters or modifies or repairs the goods without our written consent; and it shall further become null and void if the Customer does not, without delay, take appropriate steps to prevent the aggravation of any damage incurred where we are able to remedy such damage.

13.10 If goods are made to order in conformity with designs, drawings, or models supplied by the Customer, then we shall not be liable for the correctness of the design, and our liability shall be limited solely to the execution of the design according to the Customer's specifications. The Customer shall hold us harmless from any claims for violation of patent or other property rights of third parties.

13.11 We shall assume no liability whatsoever if we undertake the repair, modification or alteration of old products or products from other suppliers. "Old products" shall mean products for which the warranty according to Sect. 13.5 above has expired, or which, to the Customer's knowledge, were previously used by us or by a third party.

13.12 It is expressly agreed that we shall be liable for damages only if we acted deliberately and with intent.

13.13 Our liability with regard to components supplied by subcontractors shall be limited to the scope of our rights under the subcontractor's warranty.

13.14 Should we take back a shipment of goods in whole or in part, then the respective total or partial sales price to be refunded to the Customer shall be subject to a deduction, for depreciation, in the amount of 3 % of the corresponding purchase price per month of use of such goods delivered in whole or in part.

14. Place of Fulfillment, Court of Competent Jurisdiction

14.1 The place of fulfillment for the delivery of goods and for payments shall be Vienna, Austria, and this shall apply even when goods are, by agreement, delivered elsewhere.

14.2 Unless the Parties to the Agreement agree on a court of arbitration, all disputes arising from the Agreement shall be adjudicated by the "Handelsgericht Wien" (Commercial Court of Vienna).

14.3 This Agreement shall be governed by the laws of Austria. By placing his order with us, the Customer declares that he understands the legal terminology in these present Terms of Delivery in the sense of their meaning in Austrian law. Austrian law shall apply to the exclusion of any remand or remission and of the United Nations Convention on the International Sale of Goods.

15. Indemnification for Damages

15.1 The Customer shall be entitled to indemnification for damages arising from delays in delivery or performance, or defective delivery or performance, solely in the event of deliberate and intentional action or gross negligence. In the case of gross negligence, the indemnity shall be limited to the damage that we have provenly caused to goods delivered by us. We shall in no case, except where our action was deliberate and intentional, be liable for consequential damages of any

kind whatsoever - in particular, loss of profits. Claims for damages shall be subject to a term of limitation, namely, six months from the point in time at which the Customer becomes aware of the damage; and where he is not aware of the damage, twelve months from the date of delivery. 15.2. In particular, no claim for damages shall be admissible when the damage is due to force majeure or an Act of God. In particular, a closure of our plant - which does not necessarily have to be a consequence of insolvency - shall also be deemed to be a circumstance of force majeure that precludes our liability.

16. Miscellaneous

16.1 The Customer shall in no case be entitled to assert - not even by way of objection - any rights he may have to compensation or to withhold anything.

16.2 It is agreed that, if any clause in these present Terms should be contrary to statutory law and hence be null and void if applied, then - as agreed upon - such clause shall not be replaced by the provisions of statutory law, but it is rather understood that it will be replaced by an admissible clause that most closely fulfills the purpose of these present Terms.