

General terms of delivery and payment

Firma Müller Präzision GmbH in 93413 Cham

As we are a German company and are subject to German law, please note that the German version of the “General Terms of Delivery and payment” alone is legally binding. This translation shall only serve as a guideline. For this reason please refer to the German “Allgemeine Liefer- und Zahlungsbedingungen der Müller Präzision GmbH”.

Scope

1. The General Terms of Delivery and payment shall apply, as soon as the contracting parties had stipulated in written form or any other mode.
Commercial terms and conditions of the business partner (purchaser) shall not be part of any contract unless the applications of those conditions are expressly agreed to in written form.

General Provisions

2. The contracting parties shall immediately confirm verbal agreements in detail, in written form.
3. Orders will not be binding until the order is confirmed by us.

Long-term contracts and order-contracts, price adjustment

4. Unlimited contracts are terminable within a period of 3 months.
5. If at long-term-contracts (contracts with a period of validity more than 12 months and unlimited contracts) an essential modification of the labor costs, material costs or energy costs arises, each contracting party is entitled to demand a reasonable price adjustment considering these facts.
6. If no mandatory order size is agreed, our calculation shall be based on the nonbinding order quantity, as is expected by our business partner at a specific date.
If the purchaser takes less than this target quantity we are entitled to increase the price per unit adequately. If he takes more than the target quantity, we will cut the unit price adequately, provided that the purchaser has announced the additional demand at least six months before delivery.
7. In case of call-off contracts binding quantities have to be announced at least three months before delivery on call if there is no other agreement.
Additional costs which are caused by the purchaser due to a late call-off order or subsequent modifications of the demand relating time or quantity shall be charged at the expense of the purchaser (hereby our calculation is decisive).

Confidentiality

8. Each contracting party shall use all documents (these are samples, models and data/specifications as well) and knowledge, which he obtains from the business connection, for the mutual purpose only, keep secret to third parties with the same diligence as corresponding own documents and knowledge, if the contractual partner indicate these documents as strictly confidential or the secrecy of these documents is obviously important for him.

This commitment starts for the first time at the receipt of the documents or knowledge and ends 36 months after the end of the business connection.

9. The commitment does not apply for documents and knowledge which are generally known or already known to the contractual partner on receipt, without obligation for secrecy, or shall be forwarded afterwards from an authorized third person, or developed by the receiving contracting party, without utilization of documents which have to be kept secret, or knowledge of the contracting party.

Engineering drawings and descriptions

10. If one contracting party places engineering drawings or technical documents about the contract goods, at the disposal of the other party, they shall remain the property of the presenting contracting partner.

Samples and production resources/ tools

11. Unless otherwise agreed the manufacturing costs for samples and devices (tools, molds, templates, etc.) for the ordered commodity shall be charged separately. This also applies for devices that must be replaced as a result of abrasion.
12. We shall pay the costs of maintenance and appropriate storage as well as the risk of damage and demolition of devices.
13. If the contracting party pauses or finishes the cooperation during the processing time of the samples and devices, all manufacturing cost arose until than have to be paid by him.
14. The devices remain in our possession until the winding up of supply the delivery contract at least, albeit the device had been paid by the purchaser. Thereafter the contracting party is entitled to reclaim the manufacturing equipment, if and when a mutual agreement was reached for the point in time of the restitution and the contracting party has fulfilled his contractual liabilities to the full extend.
15. We are allowed to use recipient-related devices which are for subcontracting to a third party, only with previous written agreement from the contracting party.

Prices/costs

16. Our prices are quoted in Euro excluding value added tax (VAT), packaging, freight, postal charges and insurance.

Terms of payment

17. All bills are due for payment within fourteen days.

18. If we had unquestionably delivered partly defective products, our contracting partner is nevertheless obligated to make payment for the error-free share – unless he is not interested at the partial delivery. Furthermore the purchaser can only balance if he has legally binding or unquestioned counterclaims.
19. In the event of a default in payment we are entitled to charge an flat-charge of 40,00 Euro plus interest 9 percent higher than the respective discount rate of the German Central Bank.
20. At default in payment we are allowed to stop the completion of our obligations after written notification to the contracting party, until receipt of money.
21. Payment is to be made at one of our bank accounts.
22. If after conclusion of the contract a significant exposure of our pecuniary claims occurs, because of an essential deterioration of the financial circumstances of the contracting party, we are allowed to require payment in advance or security within a reasonable period of time and refuse the service provision until the settlement occurs. At refusal of the partner or after the deadline we shall be entitled to withdraw from the contract or demand compensation because of failure of performance.

Delivery

23. Unless otherwise accepted, we deliver “ex works”. Decisive for the date of delivery or the period of delivery is the announcement of shipment- respectively the readiness for pickup service by us.
24. With the posting of our confirmation the period of delivery starts and prolongs adequately if the requirements of number 47 are fulfilled.
25. Part deliveries are permitted at a reasonable extend. They shall be invoiced separately.
26. Within a tolerance of 10 percent of the total order quantity, excess- or short delivery caused by production are permissible. Thereby the total price changes corresponding to the volume.

Dispatch and transfer of risks/perils

27. Products that are announced ready for delivery/shipment have to be taken over promptly by the contracting party. Otherwise we are entitled to dispatch at our own choice or to store at the expense and at the risk of the contracting party.
28. Failing special agreements we choose the means of transportation and the route of transport.
29. With the handover to the railway , the haulage contractor or freight carrier, with the start of storage respectively, however at abandoning the factory or the warehouse at the latest, the risk is transferred to the contracting party if we conduct the delivery.

Delay in delivery

30. If it is foreseeable that the goods cannot be supplied within the agreed delivery deadline, we will promptly inform the contracting party in written form, explain the reasons for the delay, and notify about the prospective delivery date if possible.
31. If delivery delays because of circumstances given at number 52, or by action or default of the purchaser, extended term of delivery will be granted according to the circumstances.

Retention of title

32. We reserve property in the delivered goods until complete payment of all outstanding debits of the current relationship.
33. The contracting party is authorized, to sell the products at proper course of business, as long as his liabilities of our business connection are fulfilled on time. He is not allowed however, neither to pledge goods subject to retention of title nor to assign them as security. At credited resale he is obligated, to secure our rights of the goods subject to retention of title.
34. In case of any delay in payment of the contracting party we are entitled to claim the restitution of the products subject to retention of title – after setting a final deadline.
35. All claims and rights from sale or renting/leasing of products we have property rights if so permitted to the contracting party, the contracting party will assign for covering by now. We accept the assignment herewith.
36. The purchaser always takes any treatment or processing of the goods subject to retention of title for us. If the goods subject to retention of title will be processed with other items which do not belong to us or intrinsically mixed, we will acquire on this new item proportionally to the invoice value of the goods subject to retention of title to the other processed or mixed objects – by the time of processing or mixing (dilution).
If our products shall be combined/ connected with other moveable items to a uniform object or intrinsically mixed and if this other object is supposed as main item, the contracting party transfers co-ownership to us proportionately, insofar as the main part belongs to him. The contracting party stores the property or co-ownership in favor of us. For the item developed from processing or combining respectively mixing/ dilution, the same applies - ceteris paribus -as for the goods subject to retention of title as well.
37. In case of measures of debt enforcement in the goods subject to retention of title by any third party to the outstanding debits, or any other securities, the contracting party has to inform us immediately and handover the documents necessary for an intervention. This applies for any other detriments too.
38. We shall release the securities due to us - under the preceding provisions - on demand of the contracting party insofar as the value of the goods subject to retention of title exceeds the requirements more than 20 percent.

Warranty

39. For correct manufacturing of the delivered goods we warrant according to the requirement of the agreed technical delivery specifications/instructions. In case of processing according to drawings, specifications, samples, et cetera of our contracting party, the contracting party assumes the risk of the applicability for the intended application. For the contractual condition of the goods, the point in time of the transfer of risk according to numeral 29 is decisive.
40. For deficiencies, which result from inapplicable or inappropriate handling, faulty mounting and commissioning respectively, caused by the contracting party or third parties, usual abrasion, faulty or careless treatment shall not be warranted as well as for the consequences

of inappropriate changes which are conducted by the contracting party or third parties without our acceptance.

41. If nothing else is agreed the period of warranty complies according to law.
42. Obvious defects have to be notified in writing immediately after detection by the contracting party on receipt of the goods at the point of destination, hidden defects without delay – but within six months after the transfer of perils - at the latest.
43. If acceptance of the goods or initial sampling inspection was agreed, the notification of defects the contracting party could have been able to realize is excluded.
44. We have to get the opportunity to verify the objectionable defect. If demanded by us, rejected goods have to be returned without delay. If the notification of defect is justified, we appoint the freight carrier and take over the transportation costs. If the contracting party do not meet these obligations or conduct modifications at the already rejected goods without our agreement, he shall lose possible warranty claims.
45. In case of justified notice within the time limit, we shall mend the rejected goods at our own option or deliver correct parts for replacement. For bulk orders the contracting party allows us short-dated opportunity to separate the defective goods.
46. If we do not meet these obligations of warranty or according to the contract, or within a reasonable time, the contracting party can fix an ultimate deadline in written form to fulfill our obligations. After expiry of this time-limit, the contracting party may claim reduction of price, withdraw from the contract, or he conducts the necessary amendment of his own making, or he instructs a third party at our risk and expense.
If the amendment was conducted successfully by the contracting party or a third party, all claims of the partner are compensated by refunding of the necessary developed expenses.

Other requirements, liabilities

47. Unless specified otherwise below, other and exceeded claims of the contracting party to us are excluded. This applies particularly for damage claims caused by default, for the impossibility of achievement resulting from culpable infringement of contractual accessory obligation, from negligence at conclusion of the contract and from claim in tort. Therefore we are not liable for defects, which did not arise on the delivered goods. Most notably we are not liable for loss of profit or any other financial losses of the contracting party.
48. Preceding liability limitations do not apply at intention or culpable negligence of our statutory representatives or executive staff and at culpable violation of essential contractual obligations as well. In case of breach of essential contractual obligations through gross negligence we are only liable –except for the cases of intention or gross negligence of our statutory representatives or executive staff – for the reasonably foreseeable damage, which is typical for the contract.
49. Furthermore in cases of defective delivered goods, the liability limitation does not apply for damage to persons or property damage to objects privately used, according to the Product Liability Act (ProdHaftG).
It neither applies at deficiency of warranted characteristics if and insofar the warranty has precisely intended to protect against damages which arise at other than the delivered goods.
50. As far as our liability is excluded or limited, this also applies for the personal liability of our clerks, employees, staff, statutory representatives and auxiliary people.

51. The statutory rules for onus of proof will remain unaffected hereof.

Force majeure

52. Force majeure, strikes, public disturbances, official measures, lack of supply from our contractors and other unforeseeable, unavoidable and serious events, the contracting parties release from the liability of the impairment and the obligation from the compulsory treaty indemnity for the period of disturbance and at the extend of the performance.

This also applies, if these events occur at the point in time the related contracting party is in default. The related contracting parties are obligated to communicate the necessary information within the limits of the reasonable point in time and to fit the obligations to the modified conditions bona fide / in good faith.

Place of performance/fulfillment, place of jurisdiction and applicable law

53. Unless otherwise specified at the order confirmation, our business location is place of fulfilment.

54. If the contracting party is a registered trader, legal entity/person of public law or public special assets, our business location is place of jurisdiction for all civil disputes. We are entitled to take legal actions at the business location of the contracting party as well.

55. For the contractual relationship the law of the Federal Republic of Germany applies. The application of the "United Nations Convention on Contracts for the International Sale of Goods" (CISG) from 10th of April 1980 is excluded.