

General Terms and Conditions of Business

1. General Information and Scope

1.1 These General Terms and Conditions of Business, hereinafter referred to as "the terms and conditions", are of binding effect between the SFS Group Germany GmbH as the vendor or contractor, hereinafter "the vendor", and its customers, hereinafter referred to as "customer" or "purchaser".

These terms and conditions are valid exclusively for the products labelled GESIPA®.

1.2 The standard business terms below shall apply only to companies, legal persons under public law or special funds under public law in terms of section 310 sub-section 1 German Civil Code.

1.3 All deliveries, services and quotations by the vendor are made exclusively on the basis of these terms and conditions. Other terms and conditions apply only if they are accepted in writing the vendor. This also applies if the customer confirms a quotation by the vendor with reference to its own terms and conditions of business or purchase.

2. Prices and Quantities

2.1 The agreed prices are applicable. All prices are in EURO and do not include packaging, freight, postage, customs duties and value insurance. The prices are net and do not include the legally owed value added tax. The customer is obliged to pay the respective legally valid value added tax.

Price lists: the vendor shall not be bound by prices contained in price lists. Prices may be adjusted without prior notice at any time on the grounds of changes in market conditions, inflation or exchange rate fluctuations, but not limited to these.

Price adjustments: Price adjustments shall be permissible if more than 6 weeks have expired between the conclusion of the contract and the envisaged delivery date. If wages, material costs or distribution costs increase, the vendor shall be entitled to increase the price reasonably in relation to the cost increases. The customer shall be entitled to withdraw from the contract only if the price increase exceeds the increase in general living costs between the conclusion of the contract and delivery by more than an insignificant measure. In the event of follow-up orders the vendor shall not be bound by prices of preceding orders.

2.2 Quotations by the vendor remain valid, with the above-mentioned restrictions, for one month from the date they are submitted, unless a specific time limit is stated.

2.3 The vendor shall be entitled to change order quantities within quantity tolerances of +/- 10%, as is customary in commerce. Partial deliveries are permissible. The invoice shall be issued for the respectively delivered quantities.

3. Documentation

Dimensional and text data as well as illustrations appearing in the vendor's documents of any kind are not binding. When customer specific products are being manufactured, a drawing produced by the vendor is binding if available.

4. Legal Norms and Government Directives

4.1 Customers must inform the vendor about legal norms and government directives affecting the delivery, equipment or use of the goods which are the subject of enquiries or orders. This obligation to provide information includes in particular provisions regarding the nature and use of the goods to be supplied, safety regulations, health regulations, ordinances and specifications regarding prohibited substances, import regulations, etc.

4.2 If this obligation to provide information is infringed the vendor denies any liability. In such cases, the customer undertakes to indemnify the vendor in full for all claims arising therefrom.

5. Manufacture to Customer's Specification

5.1 The customer assumes sole responsibility for, but not limited to, the accuracy of the drawings, specifications, designs, models, samples and data placed at the disposal of the vendor. The responsibility of the vendor in the case of customised products is limited to their conformity to the drawings.

5.2 The customer guarantees to the vendor that the manufacture of the customised products ordered is admissible without infringing the rights of third parties, in particular intangible property rights or industrial property rights. Otherwise the vendor can withdraw from the contract with full indemnification by the customer. Furthermore, the customer undertakes to indemnify the vendor in full for all claims by third parties for infringement of their rights.

5.3 The vendor is entitled to withdraw from a delivery contract without consequent liability for damages if unforeseen problems which cannot be resolved with reasonable effort arise during manufacture.

6. Material Provided

6.1 If the customer provides products for further treatment, 10% more of these than the quantity ordered must be supplied, unless otherwise agreed.

6.2 Incoming goods inspection at the vendor confines itself to identifying the goods, reviewing the delivery and inspection documents, ascertaining shipping damage which is clearly apparent externally and checking the quantity on the basis of estimates. All costs arising from quality defects, deviations in quantity or delivery which is late or to the wrong address will be charged to the customer.

7. Delivery times / -dates and Supply Commitments

7.1 Delivery times / delivery dates are only binding on the vendor if they are explicitly confirmed in writing. Claims for compensation on grounds of late delivery are precluded unless the vendor deliberately or negligently agrees to unrealistic delivery periods and then deliberately or negligently fails to comply with them. In this case liability is limited to the immediate damage due to delay. No compensation will be paid for lost profits, losses due to business interruption and costs or expenses related to covering purchases.

7.2 Unforeseen events such as force majeure and other occurrences outside the control of the vendor or its suppliers release the vendor from the obligation to make partial or complete delivery. Compensation claims of any kind are precluded in this case.

7.3 Call-off orders (blanket purchase orders) are only binding on the vendor if they have been specifically agreed upon. Unless otherwise agreed, the vendor is at liberty in such cases to manufacture the entire quantity of the blanket purchase order on the purchaser's responsibility. In this case the customer owes the total value of the order even if it does not call off deliveries. Delivery must be taken of the entire order and payment made no later than 6 months after the first delivery date agreed.

8. Packaging

Packaging is charged to the buyer and is non-returnable. EURO pallets, boxes and returnable containers are excepted from this and will be exchanged, i.e. charged for or credited. In the absence of specific agreement, the vendor will choose a type of packaging which appears appropriate.

9. Forwarding

9.1 Unless otherwise agreed, the vendor delivers ex works, in the case of deliveries abroad duty and tax unpaid. In the absence of specific agreement, the vendor will choose a forwarding method which appears appropriate. The risk passes to the customer when the products are loaded at the plant making the delivery. Forwarding is at the customer's risk. The cost of express deliveries is charged to the customer.

9.2 Returns: Any possible returns may only be effected with the consent of the vendor. If the vendor accepts returned goods, a credit of 75% of the invoice value of the goods can be granted if they are standard manufacturing and packaging goods in perfect condition that were purchased no longer than 24 months ago. Such ex gratia credits can only be offset against other invoices and shall not be paid out. In the case of custom-made goods, returns are not possible in any event.

10. Terms and Conditions of Payment

10.1 If no agreements to the contrary were reached, claims by the vendor shall be payable 14 days after the date of invoice in the currency of the contract without deductions. If no agreement to the contrary was reached, the currency of the contract shall be EUROS. Cash payments are not permissible. No cheques shall be accepted.

10.2 If the customer defaults on payment or circumstances indicating a deterioration in the customer's financial position become known, the vendor is entitled to withdraw from the contract and to discontinue agreed deliveries. In this case all the vendor's accounts receivable are immediately due for payment.

10.3 A customary rate of default interest is charged in the event of delayed payment.

10.4 The vendor reserves the right to request payment in advance, letters of credit or bank guarantees. If this requirement is not met, the vendor can withdraw from the contract without any liability for damages. The customer is not entitled to retain payment or to offset it against counter-claims.

11. Reservation of right of ownership

11.1 As security for the respective outstanding balance due to the vendor, the vendor shall retain ownership of the goods delivered by the vendor until all current or future payment obligations of the purchaser towards the vendor, regardless of the legal basis on which these arose, have been fulfilled. This shall also apply if payments are made in fulfilment of specifically designated claims.

11.2 For as long as the vendor still has a claim towards the purchaser, any processing or transformation of goods delivered by the vendor shall be deemed to have been done with the exclusion of acquisition of ownership in terms of section 950 German Civil Code. If the purchaser combines the vendor's goods with other goods not owned by the vendor (section 947 German Civil Code), the vendor shall be entitled to co-ownership of the new product to the ratio of the invoice value of the reserved goods to the invoice value of the other goods with which they were combined. In the event of the vendors ownership expiring through such combination or mixture, the purchaser shall now already transfer to the vendor the ownership rights over the new combination or product to which he is entitled to the invoice value of the goods supplied by the vendor. In all cases of processing and transformation, the purchaser shall be considered a custodian. He shall have no claims towards the vendor from such processing and transformation and custody.

11.3 The buyer is entitled to resell, process or withdraw the goods subject to the vendors retention of title in the ordinary course of his business as long as he is not in default.

11.4 Claims of the purchaser that arise from reselling, transforming or installing the reserved goods (in particular, under purchase, service or labour and materials contracts) shall now already be deemed to have been ceded to the vendor at their time of effect, irrespective of whether the reserved goods were resold, transformed or installed without or after processing and for one or more customers. Security rights of the purchaser against his customers shall also be transferred to the vendor .

11.5 If the reserved goods are resold, transformed or installed alone or together with other goods not belonging to the vendor without or after processing, the cession of claims in terms of Article 11.4. (i.e. the previous paragraph) shall apply only to the value of the invoice for the reserved goods. When delivering goods over which the vendor holds co-ownership shares in terms of 11. 2., the cession of the claim shall apply only to the amount of such co-ownership shares. Insofar as the purchaser is bound by a cession prohibition, he shall inform the vendor accordingly and at the vendor`s request he shall obtain consent from his contractual partner.

11.6 The purchaser shall be entitled to make claims from reselling the goods reserved to the vendor until the vendor revokes this at any time. He shall not be entitled to cede such claims to third parties. Upon the vendor's request he shall be obliged to inform his customer of the cession to the vendor and to disclose to the vendor in writing the names and addresses of his customers, as well as the claims due to him according to their type and amount and, furthermore, he shall provide the vendor with all information and documentation required for confiscation.

11.7 The purchaser shall inform the vendor immediately if third parties provide reasons for or wish to exercise rights over the reserved goods or the claims ceded to the vendor; he shall immediately inform the third party of the vendors rights.

11.8 Upon request by the purchaser the vendor shall be obliged to transfer the respective ownership share and/or to release other securities in terms of Article 11.2., if the value of the vendor`s total claim is over-secured by more than 10%, not only temporarily; the reference value for establishment of the value is the invoice value of the goods supplied by the vendor .

11.9 If THE VENDOR's reservation of ownership in terms of the vendor`s conditions is not fully effective in international business, the purchaser shall be obliged to reach agreements with the vendor and to take all other measures to ensure success accordingly.

11.10 The above provisions shall apply accordingly to services rendered on the basis of a service or labour and materials contract.

12. Tools / Development Services

12.1 In the absence of written agreement to the contrary, tools of whatever kind, production equipment and development services remain the property of the vendor, even if the customer has contributed to the cost thereof. If the customer requests subsequent modifications, the cost will be invoiced separately. In this case delivery dates will be renegotiated.

12.2 If the quantity of goods on which the quotation from the vendor is based is not taken in delivery within the agreed time limit, the vendor is entitled to demand additional payment for uncovered costs in respect of tools, production equipment and development services.

12.3 Agreed obligations to preserve tools and production equipment lapse automatically when volume manufacturing of the product is discontinued, but no later than 3 years after taking the last delivery from the vendor.

13. Notification of Defects

13.1 The customer must inspect the goods promptly after delivery and immediately notify the vendor in writing if any defect is apparent. If the customer fails to make such notification, the goods are deemed to be accepted, unless the defect is such that it was not apparent upon inspection. If such a defect becomes apparent later, notification must be made immediately after it is discovered, otherwise the goods are deemed to be accepted, even considering this defect.

13.2 The period of limitation for claims by the purchaser in respect of defects is one year. It commences with the delivery of the goods.

13.3 No claims for defects shall arise in the event of insignificant deviations from the agreed quality, of insignificant impairment of usability, of natural wear and tear and of damages that arose after the transfer of risk from incorrect or negligent treatment, from excessive use, from unsuitable operating agents, from poor construction work, from unsuitable subsoil or from particular external influences not captured in the contract. If the customer or third parties carry out improper maintenance work or changes, no claims for defects shall arise for these or for resulting consequences.

13.4 Upon receipt of a notice of defect, the vendor shall be entitled to have the reported defect verified by experts selected by the vendor.

13.5 The goods which are the subject of the complaint must in any case be properly stored until the vendor gives its consent for their return. Any consequential costs arising from unconfirmed return deliveries will be charged in full to the purchaser.

13.6 In the event of justified complaints or incorrect deliveries the purchaser is only entitled to redelivery by the vendor in conformity with the contract within a reasonable time. The purchaser has no claim to compensation or rescission of the contract.

13.7 Liability for consequential damage arising from defects of all kinds is precluded to the legally permissible extent. This applies both to indirect and direct damage and also to lost profits. Any type of reworking of components without the consent of the vendor and improper treatment or storage result in the loss of all claims against the vendor in respect of defects.

13.8 If action by the purchaser to avert risks (e.g. product recalls) is necessary due to defective goods supplied by the vendor, this action must be coordinated with the vendor before it is implemented. Otherwise the purchaser has no entitlement to claim for damages against the vendor.

14. Product Liability

14.1 Claims arising from product liability are precluded if and to the extent that this is permissible under applicable law. If claims are nevertheless made against the vendor by third parties, the purchaser will indemnify the vendor against all such claims.

14.2 Insofar as the vendor provides technical information or acts in an advisory capacity and such information or advice is not included in the contractually agreed scope of services, this shall be done excluding all liability.

14.3 Insofar as the vendor is liable for infringement of a significant contractual obligation (major obligation) due to slight negligence, the vendor's liability shall be limited to such damage that is to be expected in the ordinary course of events; however, to a maximum amount of EUR 1.000.000.

14.4 For all other cases of liability due to slight negligence, claims for compensation for damages, with the exclusion of all liability for lost profit, shall be limited to an amount of EUR 700.000.

15. Cancellation of Orders

15.1 Order cancellations require the written consent of the vendor.

15.2 In the event of order cancellations, the customer undertakes to assume all costs accrued by the vendor in connection with the order, in particular for raw material, tools of all kinds, production equipment specific to the order, uncovered development costs as well as semi-finished and finished products.

15.3 the vendor is entitled to withdraw from delivery obligations if the financial condition of the customer deteriorates materially or is other than has been represented to the vendor. Any claims by the purchaser in this connection are precluded to the legally permissible extent.

16. Reprints / Duplication

Reprints and any kind of duplication - even of extracts - of, but not restricted to, brochures, the vendor standards, etc., are allowed only with written permission from the vendor.

17. Confidentiality

All drawings, sketches, explanations and samples from the vendor are confidential information which has to be kept secret and may not be made accessible to unauthorised third parties.

18. Data Protection

18.1 If personal data of employees or business partners is exchanged between the purchaser and the vendor, the data must be treated with the utmost care and confidentiality as well as in accordance with the applicable legal requirements regarding data protection. The purchaser is responsible for obtaining the legally required consent to the processing of its respective employees or business partners.



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18.2 The purchaser agrees that the vendor uses the personal data of its contact persons necessary for the execution of the business relationship. In compliance with the statutory conditions, this use also includes the transmission of data within the the vendor Group nationally and internationally. Should personal data be transmitted to the vendor Group companies in countries without adequate data protection, the protection of the data will be guaranteed by contractual privacy clauses.

19. Binding Nature of the Original Text

If discrepancies should arise between the terms and conditions of sale in German and those drawn up in other languages, the original German text shall prevail.

20. Place of Performance

Unless otherwise agreed, the place of performance for payments is Mörfelden-Walldorf.

21. Jurisdiction

Exclusive legal venue is Darmstadt. The customer/purchaser explicitly waives jurisdiction at its domicile.

22. Applicable Law

German law shall apply exclusively to all legal relationships between the vendor and the customer/purchaser without recourse to the Vienna Convention on the Sale of Goods (UN Convention on Contracts for the International Sale of Goods).

23. Escape Clause

If one or more of these provisions and the other agreements concluded should be wholly or partly invalid or impracticable or subsequently lose its legal effect or feasibility, the effectiveness of the remaining provisions shall not thereby be affected. The invalid provision will then be replaced by the contracting parties in a manner resembling as closely as possible the intention of the invalid provision.