

General terms of payment and delivery of Guss Transfer GmbH & Co. KG

1. Applicability

For all our sales and other deliveries and services in trade with entrepreneurs within the framework of their commercial or self-employed professional activity, the following General Terms of Payment and Delivery shall apply exclusively, unless individual alternative arrangements are agreed. Any customers' terms & conditions or confirmations that deviate from our own shall only be considered binding if we have explicitly approved them in writing and only to the extent approved. Lack of response or comment on our part regarding such deviating terms shall not be considered as acceptance or approval. Deviating terms and conditions of the customer are hereby expressly excluded.

2. Coming into force & scope of supply

2.1 All quotations are considered to be subject to availability. An order shall only be deemed accepted if we have confirmed the order in writing or the goods have been delivered by us. In the event of immediate delivery by us, order confirmation can take the form of our delivery note.

2.2 Side agreements, warranties and other agreements are only valid if they are confirmed by us explicitly in writing.

2.3 A reference to standards, similar technical rules, other technical information, descriptions and illustrations of the goods in offers, brochures and other documents is to be considered only a description of the goods and guarantee of condition. Certain conditions & qualities of the goods are only considered to be guaranteed by us if we have expressly confirmed them.

2.4 Delivery call-offs and any amendments or addenda to them must be in writing and signed.

2.5 We reserve the right to make technical changes to the goods to be delivered, including during the production process, insofar as these changes do not adversely affect the usefulness of the goods and, in addition, are considered not to be unreasonable for the customer.

3. Prices

3.1 Unless otherwise agreed, all prices are quoted in euros excluding packaging and transport using methods typical for this business, are subject to change and exclude any applicable VAT which is to be borne by the customer at the rate applicable at the time of invoicing. Unless otherwise agreed in writing, prices quoted are valid for 30 days.

3.2 If, after conclusion of the contract, freight costs, insurance costs or duties and charges raised by the authorities (e.g. customs duties, import and export charges) are newly introduced or increased, we retain the right to add such additional costs to the agreed price, even in the case of carriage paid or duty paid.

3.3 Any increase in material procurement costs, in particular raw material costs, labour and ancillary labour costs or energy costs may be added to our prices if a period of at least two months has elapsed between conclusion of the contract and delivery.

4. Dimensions and weights

4.1 Dimensional and weight deviations within the range of standard tolerances and relevant DIN regulations are permitted. In addition, we reserve the right to make dimensional and weight changes in the course of technical development, standardisation work and production processes, provided this does not affect proper usability of the products.

4.2 Calculations shall be based on the delivery weights and quantities ascertained by us.

5. Delivery dates

5.1 Binding delivery times and dates must be expressly agreed in writing.

In the case of non-binding or only approximate delivery dates and deadlines (indicated by phrases such as "approx.", "about", "around"), we shall make every effort to comply with them to the best of our ability.

5.2 Delivery periods begin with the receipt of our order confirmation by the customer, but not before all details of the execution of the order have been clarified and all other conditions to be met by the customer, in particular all documents, permits, clearances and approvals, are present and an agreed down payment has been received. This shall apply correspondingly to delivery dates.

5.3 Deliveries before expiry of the delivery period are permitted. The day notification of readiness for dispatch is communicated, alternatively the day of dispatch of the goods, shall be deemed to be the delivery day. We reserve the right to make partial deliveries.

5.4 If we are in default of delivery, the customer is obliged to set a reasonable grace period for fulfilment of at least four weeks. If this grace period expires without fulfilment, the customer can withdraw from the contract provided the goods have not yet been notified as ready for dispatch. All claims against us for damages or compensation of expenditure - irrespective of the reason - shall only exist as determined in Point 13.

5.5 We shall not be considered in default if the customer is in default regarding any obligations towards us, including those incurred through other contracts.

6. Test procedures and collection

6.1 If the customer wishes us to carry out any specific tests before delivery of the goods, it must inform us. The nature and extent of the inspections are to be agreed before conclusion of the contract. If such a request is not communicated until after conclusion of the contract, the customer shall bear all the costs of the test.

6.2 If the goods are to be collected, the extent and conditions must be agreed before conclusion of the contract. The goods must be picked up in the delivering facility at the expense of the customer immediately after notification that the goods are ready to pick up. If the goods are not picked up, or not picked up in a timely manner or not in full, we reserve the right to dispatch or store the goods at the expense and risk of the customer; the goods will then be regarded as having been picked up.

7. Timely deliveries by our supplier, force majeure and other delays

7.1 If we do not receive deliveries of goods or services from our suppliers for reasons beyond our control, or the deliveries are incorrect or late, or if events of force majeure occur, we reserve the right to postpone our delivery for the duration of that delay, or to withdraw in whole or in part from that part of the contract that has not yet been fulfilled. Force majeure is deemed to include strikes, lockouts, regulatory interventions, energy shortages, raw material shortages, transport bottlenecks, operational hindrances for which we are not responsible, such as caused by fire, water, damage to machinery, etc. The above provisions shall also apply if the circumstances described therein occur after we are in default.

7.2 If a delivery date or delivery period has been agreed as binding but the agreed deadline is exceeded for one or more of the reasons listed at Point 7.1, the customer is entitled to require us to confirm within two weeks whether we intend to withdraw from the contract or deliver the goods within a reasonable extension period. If we do not confirm within that period, the customer is entitled to withdraw from the unfulfilled part of the contract.

8. Shipping and transfer of risk

8.1 Unless otherwise individually agreed in writing, shipping is organised by us and insured. At our request, packaging material and transport containers shall be returned without delay freight prepaid. A credit note is then issued for the amount of the re-use value. We retain the right to decide on the transport route and the means of transport. Transport damage shall be immediately noted on the delivery note and confirmed by the carrier or, in the case of rail and postal delivery, the damage must be ascertained by the railway company or postal service to enable compensation for damage to be claimed.

8.2 Unless otherwise agreed in writing, the risk passes to the customer upon delivery of the goods to the customer or the delivery address specified by the customer.

8.3 Goods notified as ready for delivery or due for delivery shall be called off by the customer immediately. If dispatch-ready goods are not immediately called off or accepted, we reserve the right to dispatch or store the goods, at our discretion, at the expense and risk of the customer.

8.4 Ordered and properly delivered goods cannot be returned. In exceptional cases, a return may be possible after prior written approval and at a redemption fee of 30%.

9. Complaints about defects

The customer or the recipient designated by it is obliged to inspect the goods immediately upon receipt and, if necessary, by means of a trial run, to determine whether they are suitable for the intended use. Complaints in writing about quantity variances must be received within 5 days of receipt of the goods, those relating to visible defects and missing guaranteed quality characteristics, and incorrect deliveries not immediately detectable without delay but, at the latest, within 14 days of receipt of the goods, and hidden defects without delay, but at the latest within 14 days of their discovery. If the customer fails to adhere to the timing for complaints and the method of their communication, the goods shall be classed as approved. The date of receipt by us shall be decisive in determining the timeliness of the notification.

10. Warranty

10.1 If a defect is recognised by us, we reserve the right to decide whether to ship defect-free replacement goods or rework the faulty goods, and title in the items subject of the complaint reverts to us. We reserve the right to refuse remedial performance where the corresponding legal provisions apply. In the case of unjustified complaints, we reserve the right to charge the customer for all resulting costs.

10.2 If we should fail to meet our obligations regarding remedial performance or replacement delivery of a conforming product, the customer can, at his discretion, withdraw from the contract or reduce the price paid after he has granted us a reasonable grace period, unless legal provisions make a grace period unnecessary. In the event that the contract is cancelled, the customer shall be liable for any deterioration, destruction and failure to use services, not just for his own customary due care and attention, but for any case attributable to the customer.

10.3 The customer shall allow us sufficient time and opportunity to determine the defect and execute the necessary remedial work. Goods which are the subject of a complaint must be returned to us at our request.

10.4 Further claims by the customer for material defects and expenses resulting from or in connection with defects or consequential damages arising from a defect, whatever their legal basis, shall only be entertained within the restrictive terms and conditions contained in Section 13. Also in these cases, we shall only be liable for defects considered typical and predictable.

10.5 Our warranty shall be void if the goods delivered by us are free of defects, in particular defects resulting from violation of operating, maintenance and installation instructions, improper use, incorrect or negligent treatment, normal wear & tear, interference by the customer or a third party in the goods delivered or if spare parts not supplied by us are used.

10.6 Claims against us under the warranty shall lapse at the latest 12 months after delivery of the goods to the customer or the destination stipulated by the customer unless an extension to this warranty period has been agreed for specific products.

11. Terms & conditions of payment

11.1 Deliveries of goods are to be paid in full, with no deductions for postage or other expenses, at the latest on the due date stated in the invoice, or, if no such date is given, within 30 days of receipt of the invoice net. After the due date of the invoice interest on arrears shall be charged, and if the customer is in default, default interest of ten percentage points above base rate will be charged. The date of payment is the date of receipt by us or the date the amount is credited to our account. We reserve the right to claim further damages in the event of payment arrears.

11.2 Bills of exchange may be accepted as payment where specifically agreed. Bills of exchange can only be accepted if they are rediscountable. Bills of exchange are only accepted if our liability for timeliness and appropriateness of presentation and protest is excluded. Credit notes against bills of exchange and cheques are issued subject to receipt and minus disbursements and charges, at the value on the day on which we are able to access the equivalent value.

11.3 Where terms & conditions of payment are not adhered to, or we become aware of circumstances which may provide reasonable grounds for doubting the solvency or creditworthiness of the customer, even if these circumstances existed at the time of conclusion of the contract but were unknown to us at that time and we could not be reasonably expected to have been aware of them at that time, we reserve the right to insist on prepayment or collateral for any outstanding orders without prejudice to further legal action and, if the prepayment or collateral is not forthcoming within a reasonable grace period, to withdraw from the contract without further notice or claim for damages for non-performance. Furthermore, we reserve the right to prohibit resale or processing of the products in which we have title or partial title and to insist on their return to us or granting of co-ownership of the products at the expense of the customer. Action of the aforementioned kind shall not be construed as cancellation of the contract, where this is legally permitted.

11.4 The customer shall only have a right to retention or offsetting with regard to those counterclaims that are not contentious or are legally enforceable. We reserve the right to offset amounts even in the event that claims filed mutually against each other are quoted in differing currencies. The rate of conversion shall be the official mean buying and selling rate at the Frankfurt foreign exchange market on the day we declare our intention to offset amounts.

12. Retention of title

12.1 We retain all property rights to all goods delivered until all our claims against the ordering party resulting from our business transactions including any future claims resulting from contracts signed at the same time or at a later date have been paid in full, including recourse and release claims arising from bills of exchange and cheques. This also applies in the case of a balance in our favour if some or all our demands have been included in an ongoing invoice and the balance has been established.

12.2 The customer shall insure the goods delivered (goods subject to retention of title) in an appropriate manner, in particular against fire and theft. Any and all claims against the insurance resulting from a loss affecting the goods delivered are hereby assigned to us in the amount of the value of the goods delivered.

12.3 Processing or incorporating our conditionally delivered goods shall always be on behalf of us as the manufacturer as defined in Sec. 950 German Civil Code (BGB) but this shall not be construed as generating any liabilities on our part. If the goods delivered by us are inextricably combined with other products which do not belong to us, we acquire joint title to the new object in proportion to the invoice value of the products supplied compared with that of the other objects processed. If our property becomes an integral part of another object and if that object is considered to be the main item, we become joint owners of the main item to an extent which is proportionate to the value of our property in the new item. The customer agrees to store the property or joint property free of charge on our behalf. The joint ownership rights thus created are deemed to be the same as our rights in the goods delivered. On our request, the customer undertakes to provide us with any information we may require to secure our property rights or partial property rights.

12.4 The customer is entitled to sell the items in the way of normal business. The customer is not permitted to make other disposals, especially pledging or granting of equitable lien. If the goods delivered are resold but the buying party does not pay immediately, the customer shall only sell under retention of title. The authorisation to resell the products or to process them is deemed to lapse without further notice or action if the customer ceases payment or is in default of payment to us.

12.5 The customer herewith assigns to us all claims including securities and ancillary rights that accrue to it against the end user or third parties with or in connection with the resale of the goods delivered that are subject to retention of title. The purchaser is not entitled to enter into an agreement with his customers, which excludes or affects our rights in any way or attempts negatively to affect the assignment of claims in our favour. If the goods delivered by us are resold together with other goods, the customer implicitly assigns to us a portion of the total amount owing to it from its buyer which is equivalent to the amount we invoiced to the customer for those goods, if those goods are not assigned specific individual prices in the invoice. In the event of co-ownership shares being sold in the form of goods delivered, the claim deriving from the resale shall be deemed to be assigned to us in the amount of our co-ownership share.

12.6 The customer is entitled, unless and until revoked by us, to collect the amounts assigned to us. On our request, the customer undertakes to provide us with any information and documents we may require to secure payment of the amounts assigned and, where we have not taken this step ourselves, undertakes to notify its buyer immediately of the assignment to us.

12.7 If the customer includes the receivable amounts from its resale of the goods subject to retention of title in an existing current account relation with its buyers, it hereby assigns to us the acknowledged or final balance in its favour which is equivalent to the total amount of the claims placed in the current account relationship from the resale of the goods delivered.

12.8 If the Customer has already assigned any claims out of the resale of the goods supplied or to be supplied by us to third parties, in particular due to factoring with or without recourse, or if it has entered into any other agreements under which our present or future security rights as defined in Point 12 might be impaired, it shall immediately notify us thereof. In case of recourse factoring, we reserve the right to rescind the contract and require return of the goods already delivered. The same applies in the case of non-recourse factoring if the customer cannot freely dispose of the purchase price subsequent to the contract with the factor.

12.9 In the event of action by the customer in violation of the contract, in particular in the case of default of payment, we reserve the right to require return of all goods delivered; in such a case, the customer is obliged to hand over those goods without further action on our part. We shall be granted access to the customer's business premises at any time during normal business hours in order to determine the state and status of the goods delivered by us. Recovery of goods subject to retention of title shall only be tantamount to a cancellation of the contract if we have communicated this explicitly and in writing or binding legal provisions force that result. The customer undertakes to notify us immediately in writing if third parties attempt to access the goods delivered or amounts receivable that have been assigned to us.

12.10 Where the value of the collateral in our favour exceeds the value of the claims secured by that collateral by more than 20% in total, the customer is entitled to demand a release from a corresponding amount of collateral at our discretion.

13. Exclusion and limitation of liability

13.1 Where claims for compensation or damages are made against us for a violation of obligations, for whatever legal reason, we shall only accept liability for minor negligence of violation of a key contractual obligation that might negate the purpose of the contract. In all other cases, we do not accept any liability for minor negligence.

13.2 In the event of liability as defined at Point 13.1 above and non-culpable liability, our liability is restricted to replacement of the damage to a reasonable and predictable degree. Claims for the restitution of expenses incurred in vain by the customer are not permitted.

13.3 In the event of consequential damages resulting from delay in delivery due to minor negligence, we shall only be held liable up to 5% of the net invoice value.

13.4 The customer bears sole responsibility for deciding on the deployment of the goods or other services delivered by us. Unless we have confirmed in writing the suitability of the goods delivered and their specific quality in connection with a contractually defined application, our application advice shall be considered non-binding. It is only intended to explain to the customer the best pos-

sible application of our products and does not release the customer from its obligation to satisfy itself by its own examination that the products are suitable for the purpose intended by the customer. Our liability for advice given or not given shall be restricted to that defined in Point 13.1.

13.5 The disclaimer in accordance with Points 13.1 to 13.3 applies to the same extent to the officers of the company, legally appointed agents, executive and non-executive staff and all other agents and employees.

13.6 The provisions of Points 13.1 to - 13.4 shall not apply if a claim is made against us under product liability legislation, or if liability is for injury to life and limb or health generally or if we have accepted a quality guarantee or in the case of fraudulent failure to disclose a defect.

13.7 All claims against us for damages or reimbursement of expenses shall lapse at the latest 12 months after delivery of the goods or, in the case of culpable liability, from the moment of discovery or grossly negligent failure to notice the circumstances giving rise to the claim or the identity of the person liable to make compensation. This shall not apply in the case of intent or those cases listed in Point 13.6.

13.8 If the end-user of the goods is a private consumer, the statutory provisions shall apply to the application of the statute of limitations regarding the customer's right to make a claim against us.

14. Copyright

The customer is only entitled to use the documents and drawings provided by us and the design services and proposals for the shaping and manufacture of castings for the intended purpose and shall not make them accessible to any third parties or make them public by any means without our prior written approval.

15. Order-related accessories, parts to be included in castings

15.1 Order-related accessories provided to us by the customer, such as patterns, templates, core boxes, moulds, casting tools, jigs and master gauges, shall be provided at no cost to us. We shall only check conformity of these accessories provided by the customer with the contractually agreed specifications, drawings or specimens if such a check is expressly agreed with the customer. Accessories provided by the customer may be modified by us if this is a necessity for casting reasons and the workpiece itself is not modified.

15.2 The customer shall bear the costs of modification, maintenance and use of its accessories.

15.3 The accessories shall be handled and stored by us with the same level of care as we apply to our own items. We are not obliged to take out insurance cover. We are entitled to return any accessories belonging to the customer that are no longer needed at the customer's expense and risk or, if the customer fails to respond to our notification to collect the items within a reasonable time period, we may dispose of them.

15.4 Order-related accessories manufactured or procured by us on behalf of the customer shall remain our property, even if pro rata costs are invoiced to the customer. We shall store the items for a period of three years after the final casting.

15.5 If the customer has paid for accessories in full in accordance with our agreement, we shall be obliged to procure title in the items for the customer.

15.6 Claims arising from copyright or industrial property rights may only be made by the customer if we were informed of their existence and the customer explicitly retained all such rights.

15.7 If an accessory is designed for single use but generates scrap, the customer shall either provide us with a replacement accessory or bear the costs of a replacement.

15.8 Where we are to include customer parts in castings, these parts be supplied by the customer in exactly the correct dimensions and in perfect condition. If parts become unserviceable due to rejects, the customer shall provide a replacement accessory free-of-charge.

16. Place of performance, court of jurisdiction, applicable law

16.1 The place of performance for all obligations arising from contracts is our corresponding delivering facility, and for payments it is Hilden, Germany. The responsible Court in Hilden shall have exclusive jurisdiction for any and all disputes including filing of cases in connection with bills of exchange and cheques. We reserve the right, however, to file claims against the customer at its respective general court of jurisdiction.

16.2 All legal relationships between us and our customers are subject exclusively to the laws of the Federal Republic of Germany.

17. International purchase contracts

Where customers have their registered offices outside Germany, the United Nations Convention on Contracts for the International Sale of Goods (UN CISG) shall apply with the following special arrangements:

17.1 Any amendments or addenda to this contract, including cancellations of the contract, are only considered valid if made in writing. The same shall apply to agreements on modifying the requirement for the written form.

17.2 In the event of delivery of goods not in conformity with contractual agreements, the customer only has the right to cancel the contract or insist on replacement delivery if claims for damages against us are excluded or if it would be unreasonable to expect the customer to use the non-conforming goods and claim for the remaining damage. In these cases, we are entitled initially to remedy the defect. If remedying of the defect is unsuccessful and/or if this results in an unacceptable delay, the customer may, at its discretion, cancel the contract or insist on replacement deliveries. The customer is also entitled to this course of action if the remedying of the defect results in unacceptable inconvenience or if there is uncertainty regarding the reimbursement of additional expenditure by the customer.

18. Severability

In the event that individual terms of the contract should be or become unenforceable, the remaining terms are deemed to continue in full force. In such a case, the offending clause is to be replaced by a legally enforceable one which comes closest to the commercial intentions of the contracting parties.

19. Precedence of the German version

In the event of a dispute, the German original of these General Terms & Conditions shall have precedence.

Hilden, April 2011