

GENERAL TERMS OF DELIVERY AND PAYMENT

Nissha Metallizing Solutions GMBH

1. Area of Application, Conclusion of the Contract

- (1) These Terms and Conditions apply to all of our deliveries to the exclusion of the general terms and conditions of the Purchaser and subject to any diverging written agreements.
- (2) The delivery contract shall come into effect upon our written confirmation of the order.
- (3) All further agreements made between us and Purchaser for the purpose of executing orders must be made in writing.

2. Terms of Delivery

- (1) Provided no other shipping method has been agreed, we deliver »ex works« (INCOTERMS 2020). The time at which the goods at the delivering works are ready for shipping is determinant for adherence to delivery periods and dates.
- (2) If the Purchaser fails to perform contractual duties - including duties of cooperation and ancillary duties - in good time, we are entitled, to extend our delivery periods and dates in accordance with the requirements of our production process, and to claim compensation for any damages that we may have suffered, including any additional expenses incurred, without prejudice to our rights out of Purchaser's default.
- (3) We explicitly reserve the right to deliver consignments in excess of or below 10% in terms of weight, quantity or space, up to 20% in the case of ordered consignments weighing less than 100kg; this shall apply both with regard to the total contractual quantity and each individual part delivery.
- (4) We are entitled to make part deliveries.
- (5) Unless otherwise agreed in writing, the risk is passed to Purchaser upon the consignment being shipped »ex works«.
- (6) In the event of delayed delivery, Purchaser must notify us - upon our request - within a reasonable period of time whether he intends to withdraw from the contract or insists on delivery.
- (7) Article 5 applies mutatis mutandis to Purchaser's claims to compensation for damages arising from a delay in delivery for which we are responsible.
- (8) In case of an event beyond our reasonable control meaning for example third party strikes or labour disputes, war, riot, vandalism, strikes, lockout, explosion, fire, destruction, epidemic and natural disasters as well as changes in laws or regulations and orders from authorities for which we are not responsible as well as shortage of energy or raw materials, release us for their duration and to the extent of their effects from the obligation to deliver. If delivery is thus delayed for a period lasting longer than three (consecutive) months, Purchaser is entitled, to the exclusion of all further claims, to withdraw from the contract in respect of the quantity affected by the delivery stoppage.

3. Prices and Terms of Payment

- (1) Unless otherwise agreed in writing, our prices apply »ex works« excluding packaging. All incidental expenses, such as freight, insurance, customs duties, levies and fees of all types will be charged to Purchaser. Our prices do not include value-added tax; it will be shown separately in the invoice.
- (2) In the event of default in payment or justified doubt regarding the ability to pay or creditworthiness of Purchaser, we are entitled, without prejudice to any of our other rights, to demand advance payment for any deliveries not yet performed and to call due for payment immediately all claims arising from the business relation. The obligation to deliver is suspended for as long as the Purchaser is in default with a payment that is due.

4. Notification of Defects, Warranty for Defects

- (1) The Purchaser must check immediately after receiving the goods whether such goods have the contractually agreed characteristics and are suitable for the intended purpose. Obvious defects must be notified to us and evidenced within two weeks, non-recognisable defects without delay after discovery, but within twelve months of receipt of the goods at the latest. Obvious transport damage must be notified to us without delay together with a confirmation by the transport company.
- (2) Claims based on material defects become time-barred after 12 months, unless the applicable law provides for longer warranty for building structures, items used in building structures or rights of recourse.
- (3) We are liable for lightfastness, modifiability and deviations in colour of our products as well as for the quality of their adhesion, varnishing, laminating, impregnation and any other coating only to the extent to which the defects in the materials were recognisable, prior to their use, in the course of proper examination.
- (4) Insofar as there is a defect in the item purchased for which we are responsible, we must initially be given the opportunity to undertake subsequent performance within a reasonable period of time. We have the right to select the type of subsequent performance (e.g. rectification or replacement/delivery). Replaced parts become our property. If subsequent performance fails, Purchaser is entitled at his discretion to withdraw from the contract or require a reduction in the purchasing price.
- (5) Unless otherwise stipulated in Article 5, any further warranty claims for defects on the part of Purchaser - regardless of their basis in law - are excluded.

5. Liability

- (1) If the cause of damage is based on intent or gross negligence, we are liable in accordance with the statutory provisions. The same applies insofar as liability on the grounds of injury to life, bodily harm or impairment of a person's health, violation of material contractual obligations is mandatory according to the Product Liability Act.

(2) In the event of grossly negligent breach of a major contractual duty, our liability is limited to compensation of the typically foreseeable damage. All other claims for damages - regardless their nature and legal basis - are excluded. To this extent, we are not liable for damages that did not occur to the actual item delivered and particularly not for any direct, indirect or consequential damage or additional expenditure, production losses, loss of profits or other pecuniary damage on the part of Purchaser.

(3) Insofar as our liability is excluded, this also applies to the personal liability of our employees, representatives and agents.

(4) Our technical advice and recommendations are based on adequate examination but are not part of our contractual obligations.

Any liability on our part is thus excluded except for cases of intent or gross negligence.

6. Reservation of Title

(1) We reserve title to the goods delivered by us as security for all claims accruing to us against Purchaser out of the present and future business relations.

(2) Our title extends to the new products created by processing our reserved-title goods. In the event of processing, linking or mixing with other goods not belonging to us, we acquire co-ownership equivalent to the relation of the invoice value of our reserved-title goods to the other materials.

(3) Purchaser will exercise possession of the reserved-title goods with the care of a prudent businessman as custodian on our behalf, insure the reserved-title goods against theft, damage caused by nature and other risks and take all measures necessary to ensure that the title is neither impaired nor rescinded.

(4) Any processing required will be done by Purchaser on our behalf without any obligations arising on our part.

(5) To secure our relevant claims under Para. 1, Purchaser already now assigns to us all receivables from the sale of reserved-title goods, including bills of exchange and cheques. If goods are sold in which we have a co-ownership share in accordance with Para. 2, assignment is limited to the share of the receivable that corresponds to our co-ownership share.

(6) In the event of default in payment, cessation of payment or if Purchaser has filed a petition for the commencement of insolvency proceedings, Purchaser must, at our request, notify his customers of the assignment, carried out in accordance with Para. 5, and provide us with all necessary information and take all measures to secure our rights. In particular, we must be notified immediately of any attachment by creditors of the reserved-title goods or the receivables assigned to us.

(7) If the value of the security exceeds the value of receivables to be secured by more than 20% we shall, upon Purchaser's request, release securities to this extent selected by Purchaser.

7. Trademarks, Proprietary Rights, Marks of Origin

(1) The marks of origin or identification marks attached to our goods may not be altered or removed without our written approval.

(2) Trademarks or brands under which our goods are delivered may not be used by the Purchaser for the products manufactured from the same nor for any other purposes of his own, especially advertising purposes, without our prior written approval.

(3) We reserve all title and copyright to specimens, illustrations, drawings and other documents as well as tools which also include embossing dies, press rollers or permanent moulds. This also applies if the Purchaser pays portion of costs for such articles.

(4) If production or delivery is made according to drawings or other specifications of Purchaser, and if proprietary rights are infringed as a result thereof, Purchaser shall indemnify us of all claims of third parties.

(5) We are authorised to destroy any tools, print rolls, sketches, designs and any other aids three years after their last use.

8. Packaging

Unless otherwise agreed, our reusable transport packaging must be returned carriage paid in proper condition to the delivering works immediately after emptying. If this does not take place, we may charge Purchaser the costs of replacement. The reusable transport packaging must be stored in the appropriate manner.

9. Place of Performance, Court of Jurisdiction

Place of performance and, if Purchaser is a registered merchant, place of jurisdiction is the location of our delivering works. However, we are also entitled to bring our claims before the place of general jurisdiction of Purchaser.

10. Applicable Law

(1) The contract is governed by German law with the exclusion of conflict of laws provisions. The latest version of the INCOTERMS of the International Chamber of Commerce in Paris is applicable.

(2) The application of the UN Convention of 11.4.1980 on Contracts for the International Sale of Goods is hereby excluded.