

GFS Gesellschaft für Sensorik mbH

Conditions for the Sale and Delivery of Sensor Technology

1. Scope

- 1.1 Supply contracts shall, as far as not expressly agreed to differently, be accepted and carried out according to the following sales and delivery conditions. This applies also to all subsequent contracts without further reference. Precious metal sales, repairs and assembly are subject to special conditions.
- 1.2 We (hereinafter referred to as supplier) contradict explicitly all commercial terms and conditions of the purchaser.
- 1.3 Arrangements amending these conditions shall be in writing. Verbal agreements shall immediately be confirmed in writing.
- 1.4 These conditions regulate all the business dealings between supplier and purchaser.

2. Offers, sales and technical documentation and industrial property rights

- 2.1 Offers, unless stated differently, are valid for a period of 4 weeks, subject to prior sale. An obligation to deliver only becomes valid after having confirmed the order in writing.
- 2.2 In the absence of any particular reference in the offer, approximate values customary in trade are valid for technical data, material specifications etc. Notification in the case of a variation will only be given when the product integrity warranty is affected.
- 2.3 All documentation given to the customer by the supplier remains the property of the supplier. It must not be made available to third parties without the prior written permission consent of the supplier. If no order is placed and if requested by the supplier, all documentation including any copies that may have been made must be returned to the supplier without delay.
- 2.4 It is the responsibility of the purchaser to verify that the data contained in catalogues, sales brochures and published documentation meet the requirements of the intended application. This also applies to the choice of suitable materials. The purchaser must ensure that the use of the product is appropriate.
- 2.5 The supplier has no obligation to check the correctness and/or legal conformity of specifications given by the purchaser as this is the sole responsibility of the purchaser. This applies in particular in the case of a possible litigation due to a breach of industrial property rights..
- 2.6 The purchaser guarantees, that the execution of the contract does not result in any infringement of industrial property rights by the use of components, drawings or samples supplied by the purchaser or third parties. The purchaser will conduct possible defense procedures at his own expense and will compensate the supplier for any expenses resulting from such action.
- 2.7 Drawings, concepts and discussion papers, which are generated in the course of contractual negotiations are not binding. The purchaser cannot make any demands based on such documents or services given by the supplier or his agents, except in the case of culpable intent or gross negligence.
- 2.8 Requested samples shall be billed by the supplier according to expense incurred.

3. Purchase Order

Orders constitute a valid contract only after written confirmation by the supplier. The extent of the contract, thus generated, is determined by the actual text of the confirmation. The purchaser is obliged to check all relevant details and draw attention to any discrepancy in writing.

4. Delivery time and scope of delivery

- 4.1 The delivery time starts when all technical and commercial questions have been resolved and terminates with the dispatch or the notification of dispatch. Keeping to delivery schedules assumes the keeping of obligations by the purchaser, particularly in respect to payments.
- 4.2 Purchaser initiated amendments to the supply contract result in the delivery schedule to recommence with the date of the revised confirmation of the order.
- 4.3 The supplier does not accept responsibility for any delivery delays due to force majeure or events not caused nor predicted by the supplier, such as non-issue of permits by the government, strikes etc. Delivery schedules are extended by the extent of the difficulty.
- 4.4 The supplier accepts liability for not maintaining the supply contract or for delayed delivery, including the expiration of a time limit set by the purchaser only in the case of wilful intent, gross negligence or breach of essential contractual duty. However, this implies no change in the requirement of proof at the disadvantage of the purchaser.
- 4.5 The right of the purchaser to cancel an order after the passing of an appropriate delivery deadline agreed to by the supplier is not affected.
- 4.6 Partial deliveries are deemed acceptable at minor inconvenience to the purchaser.

5. Point of delivery, risk transfer

- 5.1 Delivery is made from the place of production of the supplier at the expense and risk of the purchaser. The means of shipment is chosen at the discretion of the supplier according to usual practice, unless explicitly specified otherwise by the purchaser
- 5.2 In the case of delivery without any installation or erection, the risk in respect of the delivered items, even if free delivery had been agreed to, passes to the purchaser, transport company or transport driver, or at the latest at the point of leaving the factory or storehouse. If acceptance by the purchaser is delayed, the risk is transferred at the point of readiness to deliver, even if the delay of acceptance occurs after readiness to deliver. The supplier may insure the shipment against breakage, transport or fire damage at the request and at cost of the purchaser.
- 5.3 In the case of delivery with installation or erection, the risk in respect of the delivery passes to the purchaser on the day of acceptance.

6. Prices

- 6.1 All prices are ex works. Freight/postage, packing, insurance and the respective applicable VAT are added.

7. Payments

- 7.1 Unless otherwise agreed upon, the contractual price has to be paid in full in EURO within 30 days after receipt of an invoice or an identical request for payment without any deductions. Bank charges have to be born solely by purchaser.
- 7.2 In the case of delayed payment, an additional 8 percentage points over and above the base rate of the European Central Bank will be charged. Evidence of a lesser damage has to be supplied by the purchaser.
- 7.3 The purchaser has the right to counter demands only in the case of indisputable or legally determined demands.

7.4 Costs incurred to ascertain credit, letters of credit in dealings with foreign countries or similar are at the expense of the purchaser.

8. Warranty for Material Defects

- 8.1 The purchaser should check goods immediately after receipt for possible defects. Obvious defects are to be reported to the supplier in writing within 5 working days, hidden defects within 5 days after detection.
- 8.2 The supplier has the option to repair or replace defects, which are reported to the supplier within 12 months after commissioning but not later than 15 months after delivery. This option is not waived even after repeated unsatisfactory repairs. The supplier must be given appropriate time and access to fulfil his obligation.
- 8.3 The purchaser has the right to rescind the purchase order or demand a price reduction (decrease in the order value), if the defect cannot be repaired in an appropriate period of time.
- 8.4 In the case of defects, which could have been determined by the purchaser with little inconvenience before assembly or use, all warranty claims for defective materials become void as soon as the product is assembled or in use. This does not apply in the case of culpable intent, gross negligence or injury to life, body or health by the supplier, his executive staff, consultant or contractor. It is also not applicable in case of a liability for the breach of a major contractual duty or of a mandatory product liability.
- 8.5 No warranty will be given for a predetermined life cycle of products especially under extreme or unknown operating conditions. Claims for the premature failure of the product are excluded.
- 8.6 In the case of products, which were manufactured according to customer drawings and specifications, supplier's warranty for material defects is limited to compliance with the specification. Mandatory product liability as well as liability for intentional and gross negligence are not affected.
- 8.7 The warranty for material defects does not cover normal wear and tear or damage caused by faulty or negligent maintenance or inappropriate use outside the specifications or contract.
- 8.8 For material defects, which reduce the value or the useability only minimally or not at all, a liability is excluded.
- 8.9 Recourse rights according to §§ 478, 479 of Federal Common Law (BGB) only allow the consumer to make claims within the scope of the legislation and do not regulate the understanding of good will provisions with the supplier. They are subject to the consumers observing their duty, in particular the duty to report defects.

9. Liability

- 9.1 All claims for damages and compensation of the purchaser are excluded – whatever the legal base, including claims as to illegal action or material defect or damage caused by the defect, or culpable neglect of associated contractual duties or the loss of income. This does not apply if the supplier, his executive staff, consultant or contractor is guilty of culpable intent, gross negligence or injury to life, body or health or a liability for the breach of a major contractual duty or of a mandatory product liability exists.
- 9.2 In the case of a major breach of contractual liability, which does not involve intent or gross negligence and which does not involve an injury to life, body or health or the product integrity warranty, the liability shall be limited to compensation to the extent of assessable damage, which is typical in these contractual contexts.
- 9.3 Materials, which the purchaser is supplying to the supplier for the manufacture of products ordered by the purchaser, are only insured against theft. The supplier is liable for the loss or deterioration of such goods only in the case of intent or gross negligence.

- 9.4 Advice given to the purchaser by the supplier, particularly as to the usage of products, is binding only if given or confirmed in writing.
- 9.5 The legal requirements as to the need of proof are not affected.

10. Joint ownership

- 10.1 The finished product (from now on called the joint product) remains the property of the supplier until paid in full and all due demands, which the supplier derives from the business relationship with the purchaser, have been met. During this period of joint ownership no seizure, transfer by way of security nor ceding of demands by the purchaser are to take place without the explicit permission of the supplier. The supplier is to be notified without delay in case of a seizure by a third party.
- 10.2 If the purchaser processes the joint product into a new product, the processed article remains the property of the supplier. The transfer of ownership is excluded under Federal Law (BGB) § 950. By processing, mixing or reconstructing the joint product with other products, not being the property of the supplier, the supplier gains shared ownership of the resultant product in proportion of the monetary value of the joint product and other component products at the time of processing. It is the duty of the purchaser to store and control the resultant product with appropriate care.
- 10.3 Therefore, under these conditions, the resultant product is treated the same as the joint product. In case of a sale of the resultant joint product, the purchaser reduces his claim on the product value by the amount proportionate to the purchase value of the joint product of the supplier in respect to all other products contained in the resultant product. In the case of the sale of the resultant product, together with other components not owned by the supplier for a total all-inclusive price the purchaser shall pay the supplier the proportion of the total price that represents the share of the supplier.
- 10.3 The purchaser also accedes to a claim of the supplier in respect to any third party, if the joint product is incorporated in real estate property.
- 10.5 The purchaser is empowered, unless the power is revoked to collect money due resulting from the resale in the course of normal business transactions. Irrespective of the above, the supplier has the right to collect the claim if the purchaser has not fulfilled his contractual duty, in particular to settle due accounts on time. The purchaser must name, if requested, the debtors of outstanding claims and show the amounts due. Making a claim on the reserved ownership goods and in particular a demand to transfer same constitutes a contract cancellation.
- 10.6 The supplier undertakes upon request by the purchaser to free the purchaser from any obligation to accede to claims of the supplier exceeding 10% of the actual value of the goods.

11. Legal Venues

- 11.1 The laws of the Federal Republic of Germany are exclusively valid, excluding UN Commercial Laws (UNCITRAL- Commercial Laws). Contract language is German.
- 11.2 In the case of the purchaser being a purchasing agent, a legal representative of the public instrumentality or utility, also for all disputes involving documents, exchange and cheque transactions, the legal venue for both parties is the local court of the supplier. The supplier has the right to take legal action against the purchaser in any other legal court.

12. General Clause

Invalidation of any one of the clauses in this contract does not affect the validity of other paragraphs. Should a clause be or become ineffective, the contractual parties to this contract shall endeavour to replace the ineffective clause with a new agreed clause, to reflect as fully as possible the commercial and legal purpose.