

1. Scope of application, offers

1.1 These General Sales and Delivery Conditions apply to all purchase and delivery agreements concluded between Ergoswiss AG (hereinafter "Seller") and its customers (hereinafter "Buyer"), unless different agreements are made. They shall take precedence in every case over any other conditions that were sent by the Buyer or that exist in the Buyer's written documents.

1.2 Quotes are non-binding. We reserve the right to make changes for construction or sales-related reasons. Agreements, in particular oral arrangements, promises, guarantees and other assurances made by our sales staff are only binding when confirmed in writing.

1.3 The documents forming part of the quote such as drawings, illustrations, technical data, references to standards and statements in advertising material shall not be construed as information on quality, assured characteristics or guarantees unless they are expressly designated as such in writing.

1.4 Any deviations of the delivered item from offers, samples, test shipments and pre-deliveries are permissible as long as they are within the respective applicable DIN/EN standards or other relevant technical standards.

2. Prices

2.1 The prices set out in our price list are non-binding and without any obligation on our part. They can be changed at any time without prior notice unless otherwise agreed. Prices quoted exclude VAT, freight and shipping. Packaging costs are included in the prices quoted.

3. Payments

3.1 Invoices are payable net without deduction within 30 days of the invoice date unless otherwise agreed in writing. We reserve the right to collect an advance or down payment.

3.2 An agreed discount only ever relates to the invoiced value and requires that all sums due from the Buyer at the time of discount have been settled.

3.3 The decisive date for compliance with payment periods and discount entitlement is the value date of the payment by post or the payment order to the bank. If the last day of the payment period falls on a Saturday, Sunday or public holiday, the payment can be carried out on the next working day.

3.4 Cheques are not regarded as paid until cashed. Any resulting bank charges are to be borne by the Buyer.

3.5 If the payment is not made by the deadline laid down in Article 3.1, the Seller is entitled after this deadline has expired to provide the Buyer with a notice of default and to set a payment deadline and to charge 5% default interest plus reminder fees from the expiry of the deadline. The material delivered by us remains the property of the Seller until payment of the agreed purchase price has been received in full.

3.6 Failure to comply with our payment conditions releases the Seller from delivery obligations but does not free the Buyer from his obligation to accept the goods. If the Buyer is in de-

fault with the payment, the Seller is entitled after prior reminder to demand payment in advance for further orders and to retain deliveries that have not yet been executed.

3.7 Any counterclaims of the Buyer that are contested by the Seller or not established as legally valid do not entitle the Buyer to set off or to withhold payment.

3.8 The Seller can suspend the performance of its obligations if it becomes apparent after conclusion of the contract that the Buyer will not be able to fulfil a substantial part of its obligations. The Seller is entitled to withhold performance of his services until consideration has been received. If no security has been provided within an appropriate period of time set by the Seller, the Seller is entitled to withdraw from the agreement. If the Seller has already despatched the goods before it becomes apparent that the Buyer will not be able to fulfil a substantial part of his obligations, the Seller can oppose the delivery of the goods to the Buyer.

3.9 In the event of a default in payment, legal remedies in accordance with Art. 107-109 OR - Swiss Code of Obligations - apply.

4. Deliveries

4.1 Delivery deadlines are deemed to have been complied with if the delivery item has been handed over to the carrier/freight forwarder by the expiry of the deadline.

4.2 Delivery deadlines shall be extended in an appropriate manner in the event of measures taken as part of industrial disputes, especially strikes and lockouts as well as the occurrence of unforeseen impediments that lie outside the influence of the Seller, as long as such impediments can be proved to have a significant impact on the production or delivery of the delivery item. This also applies if the circumstances arise at upstream suppliers. We shall inform the Buyer of such circumstances immediately. These provisions also apply to the delivery deadlines. If the performance of the agreement becomes unreasonable for one of the two parties for the above-mentioned reasons, this party can withdraw from the contract.

4.3 Benefits and risks are transferred to the Buyer upon hand-over of the goods to a carrier or freight forwarder. This also applies to partial deliveries and also if delivery "free domicile" has been arranged. The duty to unload and the costs involved in unloading shall be borne by the Buyer. The transport is insured via the Seller.

4.4 We are entitled to make partial deliveries to a reasonable extent. In the case of custom-built goods, over- and under-deliveries are permissible up to 10% of the agreed quantity.

4.5 In the case of call-off contracts, the Seller is entitled to produce the entire quantity ordered in one process or to have it produced as such. Requests for changes cannot be taken into consideration after the contract has been awarded unless this has been expressly agreed. In the absence of firm agreement to the contrary, call-off dates and quantities can only be complied with to the extent of the delivery or production possibilities of the Seller. If the goods are not called off in accordance with the agreement, the Seller is entitled, after allowing an appropriate grace period to elapse, to charge them as having been delivered.

4.6 For orders of small quantities under a total value of CHF/EUR 200 that cannot be processed at a price to cover costs, an order supplement will be charged of CHF/EUR 25.

4.7 A deduction of 20% of the gross return amount will be claimed by way of credit notes for returns that are not our fault.

5. Retention of title

5.1 All delivered items remain the property of the Seller until all debts relating to these goods have been paid in full.

5.2 The Seller reserves the right, in the event of non-payment, to have the right of retention entered at the registered office or place of residence of the Buyer. The Buyer shall bear the costs for such an entry.

6. Guarantee, liability, warranty

6.1 Notices of defects are to be made in writing immediately after receipt of the goods but no later than 8 days afterwards and the asserted defect is to be described in detail. The Seller's guarantee is limited to production or material defects and the Seller has the option of either repairing or replacing the item in question. If the Seller is not able to repair or replace the item, the Seller shall refund the purchase price in all cases of proven defects of the purchased item.

6.2 Damage due to external mechanical, chemical or physical effects (transport damage) are not regarded as defects. Claims for such damage are to be made directly to the delivering post office or the freight forwarder.

6.3 The Seller grants a warranty on manufacturing and material defects. The warranty lasts 2 years and comes into force upon purchase of the goods (the invoice serves as a warranty certificate). Goods to be repaired are to be sent to our service department. The sender is liable for transport damage resulting from inappropriate packaging or lost parcels.

7. Limitation of liability, limitation period

7.1 The Seller is only liable - also on behalf of his employees - for the violation of contractual and non-contractual duties due to impossibility, default, fault when initiating contracts and tortious liability in cases of wilful intent and gross negligence, limited to the damage foreseeable on conclusion of the agreement. The Seller is in no way liable for lost profits and any form of consequential damage.

7.2 These limitations do not apply to a culpable breach of essential contractual duties if the achievement of the contractual purpose is endangered, in the case of mandatory liability in accordance with the Product Liability Act, in case of fatal injury, physical injury or impairment to health and also not if and in as far as we have fraudulently concealed defects or have guaranteed their absence. Regulations regarding the burden of proof shall remain unaffected by this.

7.3 Unless otherwise agreed, contractual claims of the Buyer against us arising due to or in connection with the delivery of the goods, shall lapse one year after delivery of the goods. Our liability from intentional and gross negligent breaches of obligation and the limitation of statutory claims for recourse

remain unaffected by this. The limitation period shall not start to run again in cases of replacement.

8. Copyright, patent and trademark rights

8.1 We retain legal property rights and copyright to all quotes, designs, drawings and other documents; third parties are only allowed access to these documents with our consent. Drawings and other documents belonging to quotes must be returned to us on request.

8.2 If we have supplied items according to drawings, models, samples or other documents furnished by the Buyer, the latter guarantees that intellectual property rights of third parties have not been violated. If third parties prohibit us from manufacturing and delivering such items with reference to intellectual property rights, we are entitled – without being obliged to examine the legal position – to stop all production and to claim damages if the Buyer is at fault. The Buyer also undertakes to indemnify us against all associated claims from third parties.

8.3 Copyright, patent and trademark rights as well as the expertise and practical knowledge as expressed in drawings and projects, shall remain our property. It is not permitted to reproduce, use or pass these items onto third parties without our express permission.

9. Confidentiality

9.1 The Seller shall adhere to all applicable data protection laws. The Seller is responsible for ensuring that strict secrecy is maintained concerning confidential business information or business secrets that the Seller gains knowledge of in connection with the business activities of the Buyer and that this information is not used in an improper way or disclosed to third parties.

10. Test parts, moulds and tools

10.1 If the Buyer needs to provide test parts, moulds or tools to execute the order, these must be delivered punctually, free of charge and free of defects direct to the production site in the agreed quantity or otherwise with a suitable additional quantity to cover any rejects. If this is not done, any resulting costs and other consequences shall be the responsibility of the Buyer.

10.2 The costs for the production of test parts including the costs of moulds and tools shall be borne by the Buyer.

10.3 The property rights to moulds, tools and other devices required for the production of parts ordered shall depend on the agreements concluded. If the moulds, tools or devices become unusable before completion of the order, the costs necessary for replacement shall be borne by us. We undertake to keep moulds, tools and other devices ready at our expense for at least two years after the last use.

10.4 With respect to tools, moulds and other devices provided by the Buyer, our liability shall be limited to the same care as we would exercise in our own affairs. Costs for servicing and care shall be borne by the Buyer. Our obligation to keep these items shall expire – regardless of the property rights of the Buyer – no later than two years after the last manufacture from the mould or tool.

11. Special provisions regarding the eShop

11.1 The contract between the customer and Ergoswiss AG shall only come into effect on receipt of the confirmation which is sent to the customer immediately after the order.

11.2 The prices listed in our eShop are net, ex works, unpackaged and excluding VAT. They are non-binding and are subject to change at any time. Packaging, transport and VAT will be shown separately on the invoice. The payment can be made via credit card, PayPal or payment in advance by bank transfer. In any case, payment is to be made before delivery.

11.3 The delivery shall be made to the delivery address given by the customer. The delivery times given in the eShop are non-binding and correspond to the expected delivery time. Should this delivery time change significantly after conclusion of the contract compared with the information given in the eShop, Ergoswiss AG will inform the customer.

11.4 Orders given with false information (false names or addresses, credit card numbers, stolen cards, etc.) will be prosecuted.

12. Final provisions

12.1 Any changes and supplements to these provisions must be made in writing. This also applies to any waiver of the requirement for the written form.

12.2 Purchase and delivery agreements as well as individual rights and obligations arising therefrom may only be transferred with the approval of the other contracting party.

12.3 These General Conditions of Sale and Delivery have been written in German and English. In the event of any contradictions, the German version is the authoritative version.

12.4 Unless the contract specifically provides otherwise, the place of fulfilment for all contractually owed deliveries and services is the place of delivery.

12.5 If one or more provisions in these General Conditions of Sale and Delivery are or become ineffective in whole or in part for whatever reason, the remaining provisions shall continue to apply unchanged. The contracting parties shall undertake to agree on replacement provisions which come as close as possible to the content of the ineffective provisions.

12.6 All agreements shall be governed exclusively by Swiss law excluding the United Nations Convention on Contracts for the International Sale of Goods signed on 11th April 1980 and the Convention on Law Applicable to International Sale of Goods signed on 15th June 1955.

12.7 In cases of differences of opinion, the contractual parties shall aim to bring about an amicable settlement if possible before referral to the court.

12.8 The ordinary courts of St. Gallen, Switzerland shall have exclusive competence to decide on all litigation arising out of or in connection with the individual purchase or delivery agreements. Ergoswiss AG reserves the right to take action against the Buyer at the latter's registered office and/or place of residence.