

Standard Terms and Conditions for Delivery and Payment

1. General

- 1.1 The following standard terms and conditions for delivery and payment shall apply to all contract deliveries and other services of GESA including the creation of models and other development services.
- 1.2 These standard terms and conditions for delivery and payment shall prevail over all earlier standard terms and conditions. Any deviating or contradictory standard terms and conditions of the Customer will not be accepted, no matter whether GESA is aware of them or fulfills the order without objection.
- 1.3 Contractual agreements are only binding if made in writing. This applies also to any ancillary agreements, supplementary agreements or modifications. Any derogation of this inwriting requirement also requires written form.

2. Sketches and Models

- 2.1 In the event that no contract is concluded between GESA and the Customer, any documents that have been handed over to the Customer together with the offer must be returned to GESA not later than 8 weeks after the date of the offer.
- 2.2 Models and sketches of the Customer shall only be returned upon the Customers explicit written request. In the event that no contract is concluded, GESA is entitled to destroy any documents submitted by the Customer 3 months after the date of the offer.

3. Moulds and Tools

- 3.1 Moulds and tools that have been manufactured by or on behalf of GESA shall remain GESAs property. The Customer is not entitled to demand possession. The production costs shall be borne by the Customer on a pro rata basis.
- 3.2 GESA shall handle the moulds and tools with care. GESA shall bear the costs of repair if a damage was caused by willful conduct or gross negligence. The duty of preservation expires 24 months after the date of the last offer.

4. Protection of Intellectual Property

- 4.1 Drafts, models, moulds, sketches and alike as well as creative or technical ideas relating thereto are intellectual property of GESA and are subject to the applicable authorship rights. Regardless of existing authorship rights the Customer agrees not to disclose or transfer information or know-how relating to drafts, models, moulds, sketches and alike to third parties, especially not to competitors.
- 4.2 In the event that the Customer violates this obligation he shall be fully liable to GESA for any resulting damage

5. Rights of Third Parties

- 5.1 The Customer represents and warrants that the products manufactured according to the sketches, models or moulds of the Customer will not violate intellectual property rights of third parties.
- 5.2 In the event that GESA is prohibited from the production and delivery of goods according to the specifications of the Customer due to the alleged violation of third parties intellectual property rights, GESA is -without being obliged to a legal review of the particular case -entitled to cease the production and delivery and to ask for reimbursement of its costs. The Customer shall hold harmless GESA from any claims of third parties without undue delay.
- 5.3 In the case that a third party has intellectual property rights with respect to a mould created by GESA, and GESA, therefore, is prevented from producing or delivering a product under a confirmed offer, the Customer shall have no claim for damages.

6. Delivery

- 6.1 The delivery of the goods will take place in accordance with a delivery schedule provided by GESA.
- 6.2 In the event of strike, fire, Act of God, delay in the delivery of raw materials or other events for which GESA is not responsible, a deviation from the delivery schedule for the resulting delay period shall be permissible without further agreement.
- 6.3 All deliveries shall be at the risk and the expense of the Customer. Goods will be insured against breakage or theft only upon written demand and at the expense of the Customer. The risk of delivery shall pass to the Customer with the products leaving the production facility of GESA also in the event that GESA bears the costs for shipment. Should the delivery be delayed as a result of circumstances under the Customer control, the risk shall pass to the Customer on the date of the written notice by GESA that the products are ready for delivery.
- 6.4 Partial deliveries are permissible. GESA also may deliver up to 5 % over or under the ordered amount of goods and charge these goods separately.
- 6.5 The Customer shall pay the full consideration also in cases in which he refuses to accept delivery of the ordered goods or of parts thereof. If the Customer has not collected the products within 7 days after GESAs written request, the goods will be stored at his expense.

7. Warranty

- 7.1 With the exception of liability according to statutory law, GESA shall not be liable to the Customer for any reason whatsoever. No warranty shall be given with respect to damages which are not related to the goods themselves; in particular no warranty is given for loss of profit or other purely economic losses of the Customer. Warranty of GESA is limited to the payments of its third-party liability insurance.
- 7.2 This liability disclaimer shall not apply in the event of gross negligence or willful conduct. It also shall not apply to liability resulting from the lack of express qualities (zugesicherte Eigenschaften) or liability pursuant to the German Product Liability Act. In the event of a culpable breach of material contractual duties, GESA shall be liable only for damages which are customary for the respective type of contract and which are reasonably foreseeable.

8. Retention of Title

- 8.1 GESA will retain title in the delivered goods until all payments related to the commercial transaction with the Customer have been received. The Customer shall handle the goods with care.
- 8.2 The Customer is entitled to sell the goods in the ordinary course of business. Any processing or transformation of the goods which the Customer has undertaken will always be on behalf and for the account of GESA. The Customer hereby assigns to GESA any and all claims which it has against the buyer or third persons who purchase the goods.
- 8.3 Upon the Customers request, GESA shall release the security interest which it holds if the collectable value of such security interest exceeds the secured claim by 20 % or more.
- 8.4 In the event that the Customer files for insolvency or has suspended payments, the Customer shall give GESA notice of designed claims and the debtors surrender, provide any information necessary to carry out the collection and the Customer shall inform the debtors (third parties) about such assignment without undue delay.
- 8.5 The Customer will give immediate written notice to GESA in the case of attachment proceedings or similar proceedings.

9. Raw Material of Customer

- 9.1 The delivery of raw material of the Customer shall be on his expense. The Customer shall deliver the ordered amount of material not later than one week before the agreed start of production. Should the delivery be delayed, the date of delivery GESA has confirmed to the Customer will no longer be binding and GESA can hold the Customer liable for all costs that have occurred due to such delay, e.g. standstill of machines.
- 9.2 The Customer will hold harmless GESA from claims of third parties which are based on the materials provided by the Customer. This applies in particular to claims pursuant to the German Product Liability Act.

10. Reclamation

- 10.1 Decisive for the quality and design of the products manufactured by GESA are the product samples submitted by GESA for review to the Customer. The responsibility for the proper construction and design and the practical suitability is with the Customer.
- 10.2 The Customer shall be obliged to review the products after receipt without undue delay. Obvious defects shall be notified to GESA within 7 days after receipt of the products, other defects shall be notified to GESA without undue delay after their appearance.
- 10.3 In the event that a reclamation is materially justified, GESA will provide replacement at no cost. Any replaced products shall become property of GESA and shall be returned upon GESAs request.

11. Payment

- 11.1 Invoices relating to tools, samples, manufacture, storage, package, shipment and recycling costs as well as costs for third party services shall be payable immediately after receipt without any discount. Other Invoices shall be payable within 30 days after the payment is made within 8 days after the date of the invoice.
- 11.2 In the event that the Customer is in default with a payment, GESA is entitled to demand default interest at a rate of 4 % above the base rate of the European Central Bank. The right to claim a higher default damage remain unaffected. The Customer has the right to prove that damage was lower or that no damage occurred at all.
- 11.3 Retention rights or rights of set off of the Customer only exist with respect to legally enforceable or undisputed counterclaims or counterclaims acknowledged by GESA.
- 11.4 In the event of an adverse change in the creditworthiness of the Customer, GESA may request prepayment or adequate security with regard to the invoiced amount.

12. Place of Performance and Place of Jurisdiction

Place of performance and place of jurisdiction for legal disputes between GESA and the Customer is Offenbach/Main.

13. Governing Law

Any agreement between GESA and the Customer is subject to German law.