

## General Terms and Conditions of Business

### 1. General Information and Scope

**1.1** These General Terms and Conditions of Business, hereinafter referred to as "the terms and conditions", are of binding effect between GESIPA as vendor or contractor, hereinafter "GESIPA", and its customers, hereinafter referred to as "customer" or "purchaser".

**1.2** The standard business terms below shall apply only to companies, legal persons under public law or special funds under public law in terms of section 310 sub-section 1 German Civil Code.

**1.3** All deliveries, services and quotations by GESIPA are made exclusively on the basis of these terms and conditions. Other terms and conditions apply only if they are accepted in writing by GESIPA. This also applies if the customer confirms a quotation by GESIPA with reference to its own terms and conditions of business or purchase.

### 2. Prices and Quantities

**2.1** The agreed prices are applicable. All prices are in EURO and do not include packaging, freight, postage, customs duties and value insurance. The prices are net and do not include the legally owed value added tax. The customer is obliged to pay the respective legally valid value added tax.

Price lists: GESIPA shall not be bound by prices contained in price lists. Prices may be adjusted without prior notice at any time on the grounds of changes in market conditions, inflation or exchange rate fluctuations, but not limited to these.

Price adjustments: Price adjustments shall be permissible if more than 6 weeks have expired between the conclusion of the contract and the envisaged delivery date. If wages, material costs or distribution costs increase, GESIPA shall be entitled to increase the price reasonably in relation to the cost increases. The customer shall be entitled to withdraw from the contract only if the price increase exceeds the increase in general living costs between the conclusion of the contract and delivery by more than an insignificant measure. In the event of follow-up orders, GESIPA shall not be bound by prices of preceding orders.

**2.2** Quotations by GESIPA remain valid, with the above-mentioned restrictions, for one month from the date they are submitted, unless a specific time limit is stated.

**2.3** GESIPA shall be entitled to change order quantities within quantity tolerances of +/- 10%, as is customary in commerce. Partial deliveries are permissible. The invoice shall be issued for the respectively delivered quantities.

### 3. Documentation

Dimensional and text data as well as illustrations appearing in GESIPA documents of any kind are not binding. When customer specific products are being manufactured, a drawing produced by GESIPA is binding if available.

### 4. Legal Norms and Government Directives

**4.1** Customers must inform GESIPA about legal norms and government directives affecting the delivery, equipment or use of the goods which are the subject of enquiries or orders. This obligation to provide information includes in particular provisions regarding the nature and use of the goods to be supplied, safety regulations, health regulations, ordinances and specifications regarding prohibited substances, import regulations, etc.

**4.2** If this obligation to provide information is infringed, GESIPA denies any liability. In such cases, the customer undertakes to indemnify GESIPA in full for all claims arising therefrom.

## **5. Manufacture to Customer's Specification**

**5.1** The customer assumes sole responsibility for, but not limited to, the accuracy of the drawings, specifications, designs, models, samples and data placed at the disposal of GESIPA. The responsibility of GESIPA in the case of customised products is limited to their conformity to the drawings.

**5.2** The customer guarantees to GESIPA that the manufacture of the customised products ordered is admissible without infringing the rights of third parties, in particular intangible property rights or industrial property rights. Otherwise GESIPA can withdraw from the contract with full indemnification by the customer. Furthermore, the customer undertakes to indemnify GESIPA in full for all claims by third parties for infringement of their rights.

**5.3** GESIPA is entitled to withdraw from a delivery contract without consequent liability for damages if unforeseen problems which cannot be resolved with reasonable effort arise during manufacture.

## **6. Material Provided**

**6.1** If the customer provides products for further treatment, 10% more of these than the quantity ordered must be supplied, unless otherwise agreed.

**6.2** Incoming goods inspection at GESIPA confines itself to identifying the goods, reviewing the delivery and inspection documents, ascertaining shipping damage which is clearly apparent externally and checking the quantity on the basis of estimates. All costs arising from quality defects, deviations in quantity or delivery which is late or to the wrong address will be charged to the customer.

## **7. Delivery times / -dates and Supply Commitments**

**7.1** Delivery times / delivery dates are only binding on GESIPA if they are explicitly confirmed in writing. Claims for compensation on grounds of late delivery are precluded unless GESIPA deliberately or negligently agrees to unrealistic delivery periods and then deliberately or negligently fails to comply with them. In this case liability is limited to the immediate damage due to delay. No compensation will be paid for lost profits, losses due to business interruption and costs or expenses related to covering purchases.

**7.2** Unforeseen events such as force majeure and other occurrences outside the control of GESIPA or its suppliers release GESIPA from the obligation to make partial or complete delivery. Compensation claims of any kind are precluded in this case.

**7.3** Call-off orders (blanket purchase orders) are only binding on GESIPA if they have been specifically agreed upon. Unless otherwise agreed, GESIPA is at liberty in such cases to manufacture the entire quantity of the blanket purchase order on the purchaser's responsibility. In this case the customer owes the total value of the order even if it does not call off deliveries. Delivery must be taken of the entire order and payment made no later than 6 months after the first delivery date agreed.

## **8. Packaging**

Packaging is charged to the buyer and is non-returnable. EURO pallets, boxes and returnable containers are excepted from this and will be exchanged, i.e. charged for or credited. In the absence of specific agreement, GESIPA will choose a type of packaging which appears appropriate.

## 9. Forwarding

**9.1** Unless otherwise agreed, GESIPA delivers ex works, in the case of deliveries abroad duty and tax unpaid. In the absence of specific agreement, GESIPA will choose a forwarding method which appears appropriate. The risk passes to the customer when the products are loaded at the plant making the delivery. Forwarding is at the customer's risk. The cost of express deliveries is charged to the customer.

**9.2** Returns: Any possible returns may only be effected with the consent of GESIPA. If GESIPA accepts returned goods, a credit of 75% of the invoice value of the goods can be granted if they are standard manufacturing and packaging goods in perfect condition that were purchased no longer than 24 months ago. Such ex gratia credits can only be offset against other invoices and shall not be paid out. In the case of custom-made goods, returns are not possible in any event.

## 10. Terms and Conditions of Payment

**10.1** If no agreements to the contrary were reached, claims by GESIPA shall be payable 14 days after the date of invoice in the currency of the contract without deductions. If no agreement to the contrary was reached, the currency of the contract shall be EUROS. Cash payments are not permissible. No cheques shall be accepted.

**10.2** If the customer defaults on payment or circumstances indicating a deterioration in the customer's financial position become known, GESIPA is entitled to withdraw from the contract and to discontinue agreed deliveries. In this case all GESIPA accounts receivable are immediately due for payment.

**10.3** A customary rate of default interest is charged in the event of delayed payment.

**10.4** GESIPA reserves the right to request payment in advance, letters of credit or bank guarantees. If this requirement is not met, GESIPA can withdraw from the contract without any liability for damages. The customer is not entitled to retain payment or to offset it against counter-claims.

## 11. Reservation of right of ownership

**11.1** As security for the respective outstanding balance due to GESIPA, GESIPA shall retain ownership of the goods delivered by GESIPA until all current or future payment obligations of the purchaser towards GESIPA, regardless of the legal basis on which these arose, have been fulfilled. This shall also apply if payments are made in fulfilment of specifically designated claims.

**11.2** For as long as GESIPA still has a claim towards the purchaser, any processing or transformation of goods delivered by GESIPA shall be deemed to have been done with the exclusion of acquisition of ownership in terms of section 950 German Civil Code. If the purchaser combines GESIPA's goods with other goods not owned by GESIPA (section 947 German Civil Code), GESIPA shall be entitled to co-ownership of the new product to the ratio of the invoice value of the reserved goods to the invoice value of the other goods with which they were combined. In the event of GESIPA's ownership expiring through such combination or mixture, the purchaser shall now already transfer to GESIPA the ownership rights over the new combination or product to which he is entitled to the invoice value of the goods supplied by GESIPA. In all cases of processing and transformation, the purchaser shall be considered a custodian. He shall have no claims towards GESIPA from such processing and transformation and custody.

**11.3** The buyer is entitled to resell, process or withdraw the goods subject to GESIPA's retention of title in the ordinary course of his business as long as he is not in default.

**11.4** Claims of the purchaser that arise from reselling, transforming or installing the reserved goods (in particular, under purchase, service or labour and materials contracts) shall now already be deemed to have been ceded to GESIPA at their time of effect, irrespective of whether the reserved goods were resold, transformed or installed without or after processing and for one or more customers. Security rights of the purchaser against his customers shall also be transferred to GESIPA.

**11.5** If the reserved goods are resold, transformed or installed alone or together with other goods not belonging to GESIPA without or after processing, the cession of claims in terms of Article 11.4. (i.e. the previous paragraph) shall apply only to the value of the invoice for the reserved goods. When delivering goods over which GESIPA holds co-ownership shares in terms of 11. 2., the cession of the claim shall apply only to the amount of such co-ownership shares. Insofar as the purchaser is bound by a cession prohibition, he shall inform GESIPA accordingly and at GESIPAs request he shall obtain consent from his contractual partner.

**11.6** The purchaser shall be entitled to make claims from reselling the goods reserved to GESIPA until GESIPA revokes this at any time. He shall not be entitled to cede such claims to third parties. Upon GESIPAs request he shall be obliged to inform his customer of the cession to GESIPA and to disclose to GESIPA in writing the names and addresses of his customers, as well as the claims due to him according to their type and amount and, furthermore, he shall provide GESIPA with all information and documentation required for confiscation.

**11.7** The purchaser shall inform GESIPA immediately if third parties provide reasons for or wish to exercise rights over the reserved goods or the claims ceded to GESIPA; he shall immediately inform the third party of GESIPAs rights.

**11.8** Upon request by the purchaser GESIPA shall be obliged to transfer the respective ownership share and/or to release other securities in terms of Article 11.2., if the value of GESIPAs total claim is over-secured by more than 10%, not only temporarily; the reference value for establishment of the value is the invoice value of the goods supplied by GESIPA.

**11.9** If GESIPAs reservation of ownership in terms of GESIPAs conditions is not fully effective in international business, the purchaser shall be obliged to reach agreements with GESIPA and to take all other measures to ensure success accordingly.

**11.10** The above provisions shall apply accordingly to services rendered on the basis of a service or labour and materials contract.

## **12. Tools/ Development Services**

**12.1** In the absence of written agreement to the contrary, tools of whatever kind, production equipment and development services remain the property of GESIPA, even if the customer has contributed to the cost thereof. If the customer requests subsequent modifications, the cost will be invoiced separately. In this case delivery dates will be renegotiated.

**12.2** If the quantity of goods on which the quotation from GESIPA is based is not taken in delivery within the agreed time limit, GESIPA is entitled to demand additional payment for uncovered costs in respect of tools, production equipment and development services.

**12.3** Agreed obligations to preserve tools and production equipment lapse automatically when volume manufacturing of the product is discontinued, but no later than 3 years after taking the last delivery from GESIPA.

### **13. Notification of Defects**

**13.1** The customer must inspect the goods promptly after delivery and immediately notify GESIPA in writing if any defect is apparent. If the customer fails to make such notification, the goods are deemed to be accepted, unless the defect is such that it was not apparent upon inspection. If such a defect becomes apparent later, notification must be made immediately after it is discovered, otherwise the goods are deemed to be accepted, even considering this defect.

**13.2** The period of limitation for claims by the purchaser in respect of defects is one year. It commences with the delivery of the goods.

**13.3** No claims for defects shall arise in the event of insignificant deviations from the agreed quality, of insignificant impairment of usability, of natural wear and tear and of damages that arose after the transfer of risk from incorrect or negligent treatment, from excessive use, from unsuitable operating agents, from poor construction work, from unsuitable subsoil or from particular external influences not captured in the contract. If the customer or third parties carry out improper maintenance work or changes, no claims for defects shall arise for these or for resulting consequences.

**13.4** Upon receipt of a notice of defect, GESIPA shall be entitled to have the reported defect verified by experts selected by GESIPA.

**13.5** The goods which are the subject of the complaint must in any case be properly stored until GESIPA gives its consent for their return. Any consequential costs arising from unconfirmed return deliveries will be charged in full to the purchaser.

**13.6** In the event of justified complaints or incorrect deliveries the purchaser is only entitled to redelivery by GESIPA in conformity with the contract within a reasonable time. The purchaser has no claim to compensation or rescission of the contract.

**13.7** Liability for consequential damage arising from defects of all kinds is precluded to the legally permissible extent. This applies both to indirect and direct damage and also to lost profits. Any type of reworking of components without the consent of GESIPA and improper treatment or storage result in the loss of all claims against GESIPA in respect of defects.

**13.8** If action by the purchaser to avert risks (e.g. product recalls) is necessary due to defective goods supplied by GESIPA, this action must be coordinated with GESIPA before it is implemented. Otherwise the purchaser has no entitlement to claim for damages against GESIPA.

### **14. Product Liability**

**14.1** Claims arising from product liability are precluded if and to the extent that this is permissible under applicable law. If claims are nevertheless made against GESIPA by third parties, the purchaser will indemnify GESIPA against all such claims.

**14.2** Insofar as GESIPA provides technical information or acts in an advisory capacity and such information or advice is not included in the contractually agreed scope of services, this shall be done excluding all liability.

**14.3** Insofar as GESIPA is liable for infringement of a significant contractual obligation (major obligation) due to slight negligence, GESIPA's liability shall be limited to such damage that is to be expected in the ordinary course of events; however, to a maximum amount of EUR 1.000.000.

**14.4** For all other cases of liability due to slight negligence, claims for compensation for damages, with the exclusion of all liability for lost profit, shall be limited to an amount of EUR 700.000.

## **15. Cancellation of Orders**

**15.1** Order cancellations require the written consent of GESIPA.

**15.2** In the event of order cancellations, the customer undertakes to assume all costs accrued by GESIPA in connection with the order, in particular for raw material, tools of all kinds, production equipment specific to the order, uncovered development costs as well as semi-finished and finished products.

**15.3** GESIPA is entitled to withdraw from delivery obligations if the financial condition of the customer deteriorates materially or is other than has been represented to GESIPA. Any claims by the purchaser in this connection are precluded to the legally permissible extent.

## **16. Reprints/ Duplication**

Reprints and any kind of duplication - even of extracts - of, but not restricted to, brochures, GESIPA standards, etc., are allowed only with written permission from GESIPA.

## **17. Confidentiality**

All drawings, sketches, explanations and samples from GESIPA are confidential information which has to be kept secret and may not be made accessible to unauthorised third parties.

## **18. Data Protection**

**18.1** If personal data of employees or business partners is exchanged between the purchaser and GESIPA, the data must be treated with the utmost care and confidentiality as well as in accordance with the applicable legal requirements regarding data protection. The purchaser is responsible for obtaining the legally required consent to the processing of its respective employees or business partners.

**18.2** The purchaser agrees that GESIPA uses the personal data of its contact persons necessary for the execution of the business relationship. In compliance with the statutory conditions, this use also includes the transmission of data within the GESIPA Group nationally and internationally. Should personal data be transmitted to GESIPA Group companies in countries without adequate data protection, the protection of the data will be guaranteed by contractual privacy clauses.

## **19. Binding Nature of the Original Text**

If discrepancies should arise between the terms and conditions of sale in German and those drawn up in other languages, the original German text shall prevail.

## **20. Place of Performance**

Unless otherwise agreed, the place of performance for payments is Mörfelden-Walldorf.





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## **21. Jurisdiction**

Exclusive legal venue is Darmstadt. The customer/purchaser explicitly waives jurisdiction at its domicile.

## **22. Applicable Law**

German law shall apply exclusively to all legal relationships between GESIPA and the customer/purchaser without recourse to the Vienna Convention on the Sale of Goods (UN Convention on Contracts for the International Sale of Goods).

## **23. Escape Clause**

If one or more of these provisions and the other agreements concluded should be wholly or partly invalid or impracticable or subsequently lose its legal effect or feasibility, the effectiveness of the remaining provisions shall not thereby be affected. The invalid provision will then be replaced by the contracting parties in a manner resembling as closely as possible the intention of the invalid provision.