

# Terms and Conditions of Sale and Delivery of Pierburg GmbH Version: 2023

## 1. Scope of Application

1.1 The Terms and Conditions of Sale and Delivery of Pierburg GmbH (hereinafter referred to as the "Seller") shall apply exclusively. Opposing terms of the Buyer or terms that deviate from these Terms and Conditions of Sale and Delivery shall not apply unless the Seller has expressly agreed to the validity of deviating terms in writing. These Terms and Conditions of Sale and Delivery shall also apply if the Seller effects delivery to the Buyer without reservation in full knowledge of opposing terms of the Buyer or terms that deviate from its own Terms and Conditions of Sale and Delivery.

1.2 Separate agreements between the parties deviating from or supplementing these Terms and Conditions of Sale and Delivery shall take precedence. They shall be supplemented by these Terms and Conditions of Sale and Delivery unless special provisions have been agreed. The content of such agreements is contingent on a written contract or the written confirmation of the Seller.

1.3 The Terms and Conditions of Sale and Delivery shall also apply to future business transactions with the Buyer. By placing a purchase order and at the latest upon acceptance of the goods, the Buyer accepts these Terms and Conditions of Sale and Delivery.

1.4 These Terms and Conditions of Sale and Delivery shall only apply in B2B relationships.

## 2. Offer and Order Confirmation

2.1 Offers by the Seller shall in all cases be non-binding. If a purchase order from the Buyer legally qualifies as an offer, it shall only be accepted once it has been confirmed in writing by the Seller within four weeks. The contract shall come into effect at the latest once the ordered goods have been dispatched or their delivery time has been communicated, and in case of partial delivery, once the first delivery has been dispatched.

2.2 Modifications and other agreements shall only be binding once they have been confirmed by the Seller in writing.

2.3 The documents, drawings, details relating to weight and dimensions, samples etc. contained in the offers are only approximate specifications and shall not constitute guaranteed qualities. The Seller shall be entitled to deviate from the descriptions in the offer to the extent that these deviations are not of a fundamental or significant nature and the purpose according to the contract is not substantially restricted.

2.4 Insofar as goods are manufactured according to Buyer's drawings, the drawings created by the Buyer and approved by the Seller shall be decisive. Deviations from approved drawings must be separately agreed and any additional costs in this regard shall be reimbursed to the Seller.

## 3. Industrial Property Rights

3.1 The Seller shall reserve industrial property rights and copyright to all illustrations, drawings, calculations, and other documents; these items may neither be used for purposes other than those stipulated by the Seller, nor made accessible to third parties without the prior written consent of the Seller. This shall apply in particular to written documents that are designated as "confidential", "secret" or similar.

3.2 The Seller shall only be liable for claims relating to violations of industrial property rights and applications for industrial property rights resulting from contractual use of the goods, if at least one property right from the family of industrial property rights has been published by the European Patents Office or in one of the following states: Federal Republic of Germany, France, United Kingdom, Austria, China, Japan or the USA.

3.3 Where deliveries are effected according to drawings or other specifications from the Buyer and where third-party property rights are breached as a result of this, the Buyer shall indemnify the Seller against any claims internally.

## 4. Recommendations and Information

Recommendations and information shall be non-binding insofar as they do not refer to the goods themselves.

## 5. Prices

5.1 All prices are net prices and shall be quoted ex works (Incoterms® 2020, "EXW") excluding packaging, freight, postage and insurance. Statutory VAT shall be added at the current applicable rate.

5.2 Any additional costs incurred as a result of modification requests may be charged to the Buyer by the Seller.

5.3 Where events occur after conclusion of the contract that result in increased costs for the Seller in terms of primary purchasing costs, manufacture and/or shipment of the goods, the Seller shall be entitled to increase its prices accordingly.

## 6. Conditions of Payment

6.1 Invoices shall be due for payment within 14 days of the invoice date without any deductions. Even as part of an active business relationship, the Seller is entitled, at any time, to only carry out a delivery, either fully or in part, in exchange for payment in advance. Discounts shall only apply where expressly agreed in writing.

6.2 The Seller shall be entitled to offset a payment against the oldest, not specifically titled debt, even where the Buyer has earmarked the payment for a different purpose. Where costs or interest have already been incurred, the Seller shall be entitled to offset payments, in the first instance, against the costs, then against the interest, and finally against the principal debt.

6.3 The Buyer shall only have the right to offset insofar as its counterclaims are legally binding, are uncontested or have been acknowledged in writing by the Seller. The right of retention on the part of the Buyer shall be limited to claims arising from the contractual relationship.

6.4 The Seller is entitled to charge default interest at the applicable statutory default interest rate. The right to prove a higher default damage shall be expressly reserved.

## 7. Delivery / Delivery Time / Delay

7.1 Delivery periods and delivery dates shall only be deemed to have been agreed with binding effect where these are expressly confirmed in writing by the Seller. The Seller shall not be bound to the delivery date or delivery period where the Buyer does not meet its obligations in due time (to make anticipated payments, to provide required documents, to supply materials for manufacture etc.). The plea for non-fulfilment of the contract shall remain reserved.

7.2 Delivery periods begin at the earliest on the day of written conclusion of the contract and once all technical issues have been clarified.

7.3 In the event of change requests from the Buyer, the Seller shall be exempt from compliance with any agreed delivery date or delivery period. In such cases, the parties shall agree a new delivery date or a new delivery period.

7.4 Unless otherwise agreed, the delivery date or delivery period shall be deemed to have been adhered to when the Seller has made the goods available at the location agreed.

7.5 The Buyer may not assert claims due to delivery delays that do not result from intent or gross negligence on the part of the Seller. In particular, including with regard to other disruptions, this shall apply to delivery delays caused by force majeure, labour disputes, unrest, epidemics and/or pandemics, cyber-attacks, official measures, failure to deliver by suppliers and any other unforeseeable, unavoidable and serious events. In such cases, the agreed delivery date or delivery period shall be extended according to the duration of the delivery impediment. The Seller shall notify the Buyer of this and, where possible, specify a new expected delivery date. Compensation for loss of profit and stop of production shall be limited to intent.

7.6 Where the Buyer delays acceptance or violates any other obligation to cooperate, the Seller shall be entitled to demand compensation for damage suffered in this respect, including any additional costs. Furthermore, the Seller shall have the right to set an appropriate acceptance period for the Buyer and to withdraw from the contract where this period has expired to no avail, and to demand compensation for damage instead of the performance.

7.7 Partial deliveries shall be permitted to a reasonable extent. In this regard, claims made by the Buyer due to partial delivery or delayed delivery of the remaining goods shall be excluded.

## 8. Retention of Title

8.1 The Seller shall reserve title of all goods delivered until all payments pertaining to the supplier relationship, including any dues as shall arise in the future, have been effected in full. In the event of conduct contrary to contract, in particular as regards payment default, the Seller shall be entitled to claim back the goods.

8.2 The Buyer shall be obliged to handle the delivered goods with care and to insure them at their purchase price against any kind of loss at its own expense during the period of retention of title. The Seller shall remain entitled to insure the goods itself at the expense of the Buyer.

8.3 In case of pledge or other third-party intervention, the Buyer shall immediately notify the Seller in writing so that the latter can initiate a third-party action or other legal remedies. Where the third party fails to reimburse the legal and extrajudicial costs arising from this, the Buyer shall be liable for such costs.

8.4 The Buyer shall be entitled to sell on the goods in the ordinary course of business; it hereby, however, assigns to the Seller all receivables arising from the resale to its customers or third parties to the value of the final invoice amount (including statutory VAT) of the receivables, irrespective of whether the goods were sold without or following further processing. The Buyer shall remain entitled to collect these receivables even after delivery. The Buyer's right to collect the receivables itself shall remain unaffected by this.

8.5 Where the goods delivered are inseparably mixed or combined with other items not belonging to the Seller, the Seller shall acquire joint ownership of the new or combined product in proportion to the value of the goods delivered (final invoice amount, including statutory VAT) in relation to the value of the other items at the time of combination or mixing. The Buyer shall safeguard the resulting sole ownership or joint ownership on behalf of the Seller.

8.6 Where the value of the securities granted exceeds the claims of the Seller by more than a total of 20%, the Seller shall be obliged to release the excess securities upon request of the Buyer, at the Seller's option.

8.7 If and to the extent that an agreement on the retention of title is not permitted under the relevant legal system, the Buyer shall provide the Seller with alternative appropriate securities on taking advantage of credit on goods.

## 9. Shipment, Transfer of Risk

9.1 Shipment shall be carried out at the risk of the Buyer. The risk shall transfer to the Buyer when the goods are dispatched at the very latest, even if the Seller has other services to perform.

9.2 Where shipment is delayed due to circumstances beyond the Seller's control, the risk shall pass to the Buyer from the day of notification of readiness for shipment. Upon written request of the Buyer and at the Buyer's expense, the Seller shall insure the shipment against breakage, damage in transit, as well as fire and water damage.

9.3 In accordance with the Packaging Act (Verpackungsgesetz), transport packaging and any other packaging shall not be taken back, with the exception of pallets. The Buyer shall be obliged to dispose of the packaging at its own expense.

## 10. Manufacturing Equipment

10.1 Insofar as the Buyer provides manufacturing equipment (e.g. tools, templates) to the Seller, these shall be sent to the Seller at no charge. The Seller can only be held liable for their loss, deterioration or incomplete return, including damage resulting from this, in cases of gross negligence or intent. This shall not apply in cases of legally mandatory liability.

10.2 Where manufacturing equipment is produced or procured by the Seller at the Buyer's request, the Seller shall invoice the Buyer for the costs for such equipment separately. The manufacturing equipment shall remain the property of the Seller. The Seller shall not be obliged to hand over said equipment to the Buyer. The above shall also apply in respect of follow-on tools. The following provision in Item 10.3 shall remain unaffected by this.

10.3 In the event of amortization of costs for the manufacturing equipment in excess of the part cost, the Buyer shall assume the costs not covered in case of non-amortization of a tool, including the costs for other type-specific equipment. Costs for models shall in all cases be for the account of the Buyer.

10.4 Drawings and documents provided to the Buyer by the Seller, as well as recommendations by the Seller in respect of design and production of the goods, may not be forwarded to third parties and can be claimed back by the Seller at any time.

## 11. Liability for Defects / Liability

11.1 The Seller shall not be liable for any damage caused by non-compliance with operating, maintenance and fitting instructions, inappropriate or improper use, faulty or negligent handling, natural wear and tear, incorrect storage or modification of the goods by the Buyer or third parties. Installation of the goods by the Buyer or a third party may only be carried out by trained and qualified personnel.

11.2 The Seller shall have the right to decide whether to remedy a defect or provide new goods. At the request of the Seller, the Buyer must hand the goods in question over to the Seller for examination. If the Seller incurs costs as a result of an unjustified request by the Buyer for the rectification of a defect (especially examination and transport costs), the Seller can demand compensation for these costs.

11.3 Expenses required for purposes of cure shall not be borne by the Seller in the event of increased expenses as a result of subsequent relocation of the goods to a location other than that of the original place of delivery.

11.4 If the Seller is sued by the Buyer by way of recourse after the Buyer itself has been sued by its customer due to defects, § 445a BGB (Bürgerliches Gesetzbuch - German Civil Code) shall apply to the enforcement of rights.

11.5 Claims based on liability for defects shall expire one year after handover of the goods unless the warranty claims are based on grossly negligent or willful breach of obligation on the part of the Seller or one of its vicarious agents or on injury to life, limb, or health. Warranty claims for defects brought against the Seller by the Buyer by way of recourse in accordance with § 445a BGB are subject, without restriction, to the limitation period set out in § 445b BGB.

11.6 The Buyer shall also undertake to fulfil its obligation of examination pursuant to § 377 HGB (Handelsgesetzbuch - German Commercial Code) in the case of resale of the goods.

11.7 The Buyer's right of recourse against the Seller as a result of such claims based on liability for material defects made against the Buyer by its customers shall be excluded if the same has not fulfilled its obligation of examination and notification or if the goods have been modified by means of processing.

11.8 The Seller's liability for compensation according to statutory provisions shall apply without limitation if the same is responsible for breach of obligation based on intent or gross negligence. Insofar as a breach of obligation based on ordinary negligence is attributable to the Seller and an essential contractual obligation has been culpably violated, compensation for damages shall be limited to the amount of foreseeable damage that typically occurs in comparable cases. In all other cases, liability shall be excluded.

11.9 Compensation for loss of profit and damage resulting from business interruptions shall be limited to intent and gross negligence.

11.10 Liability according to the provisions of the Product Liability Law or similar, non-derogable rights of foreign jurisdiction shall remain unaffected. Liability resulting from injury to life, limb, and health shall also remain unaffected.

11.11 Insofar as liability arises according to the facts in Item 11.9, the liability of the Seller in case of foreign jurisdiction shall be limited in relation to the Buyer to the extent permissible according to the relevant foreign law.

11.12 Where the Seller's liability for compensation is excluded or limited, this shall also apply with regard to personal liability for compensation on the part of the Seller's employees, representatives, or vicarious agents.

## 12. Non-assignment Clause

12.1 All claims by the Buyer against the Seller shall be non-assignable.

12.2 The Seller is entitled at all times, even without the consent of the Buyer, to involve affiliated companies (in the sense of § 15 AktG (Aktengesetz - German Stock Corporation Act)) in particular in the generation of quotations and execution of contracts as vicarious agents.

## 13. Product Liability / Notification Obligation

13.1 The Buyer shall only use the goods according to their purpose and shall ensure that these goods are only resold to persons familiar with the hazards and risks associated with the goods.

13.2 The Buyer shall also undertake to fulfil its obligation to issue warnings in respect to the goods delivered by the Seller where the former uses these goods as base material or components for its own products when placing the final product on the market. The Buyer shall indemnify the Seller internally against assertion of claims arising from breach of this obligation upon first request.

## 14. Confidentiality

The Buyer shall treat as trade and company secret all business and technical information received from the Seller to the extent that this information is not public knowledge. Information of this nature may only be forwarded for the purposes of the contract to third parties who are bound by an appropriate non-disclosure agreement.

## 15. Data Protection

The Seller shall only collect, process and use personal data concerning the Buyer in accordance with the relevant data protection regulations. Consequently, personal data concerning the Buyer shall only be used on the basis of a legal ground or consent.

## 16. Other

16.1 The place of performance shall be the location of the relevant plant of the Seller.

16.2 The place of jurisdiction for all disputes arising from the contract shall be Neuss. The Seller shall, however, be entitled to file suit against the Buyer at its general place of jurisdiction as well.

16.3 Contracts based on these Terms and Conditions of Sale and Delivery shall be solely subject to German law excluding its conflict-of-laws provisions and the UN Convention on Contracts for the International Sale of Goods (CISG).

16.4 The parties shall be obliged to comply with all statutory provisions within the framework of the contractual relationship.

16.5 Should one or several of the above provisions be ineffective in whole or in part, the validity of the remaining provisions shall remain unaffected by this. The invalid provision shall in that case be replaced by a legally valid provision that most closely approximates the meaning and purpose of these Terms and Conditions of Sale and Delivery.