

GENERAL TERMS AND CONDITIONS OF SALE AND SUPPLY OF SULO DEUTSCHLAND GMBH

1. SCOPE

Our deliveries, services and offers are performed exclusively on the basis of these General Terms and Conditions of Sale and Supply ("GTC"), which also apply to all future transactions, even if they have not been expressly agreed on again.

2. OFFER AND CONTRACT CONCLUSION

If an order is to be considered an offer pursuant to Section 145 of the German Civil Code (BGB) we may accept it within two weeks; otherwise, it is deemed rejected. We are under no obligation to accept offers of the customer. We do not accept the terms and conditions of the customer (especially the customer's terms and conditions of purchase) that conflict with or differ from ours unless we have expressly consented to their applicability in writing.

Only entrepreneurs in the sense of Section 14 BGB may become parties to the contract. We reserve the right to request proof of the commercial business nature of the other party prior to contract conclusion. All our offers are non-binding and merely an invitation to the customer to make us a binding offer. A contract is concluded only upon our written acceptance (including by fax or email) of the customer's offer. Any specifications provided through samples, models or images in our advertising material and price lists are not binding.

3. PRICES AND PAYMENT

Unless agreed otherwise in writing, our prices apply FCA Incoterms (current version) exclusive of packaging and VAT at the applicable rate as amended. The costs of packaging, shipping and insurance are charged separately.

Our deliveries are charged in EURO. Payment of the purchase price must be made to our bank account specified overleaf. The deduction of an early payment discount is only permissible subject to a special written agreement.

Unless agreed otherwise the purchase price is due within 14 days of delivery.

If the agreed payment terms are not complied with we have the right, after setting a reasonable period of grace for compliance with the payment terms, to declare all claims from the commercial relationship due and payable immediately. In addition, we are entitled to demand prepayment for any deliveries not yet performed and, following a failure to render the payments due after a reasonable period of grace, to withdraw from the contract and demand damages for non-performance. In the event of default of payment on the part of the customer we are entitled to charge interest on the outstanding amount of nine percentage points above the base rate of the Deutsche Bundesbank as applicable on the due date, and a flat fee of €40.00. We reserve the right to claim higher damages for default.

Where no fixed prices were agreed, reasonable price adjustments due to changes in wage, material and distribution costs are reserved for deliveries made three months or more after contract conclusion.

4. DELIVERY & DELIVERY PERIODS

The start of the delivery period specified by us is subject to the timely and proper fulfilment of the customer's obligations. We reserve the defence of non-performance of the contract.

Unless agreed otherwise in writing, deliveries of unpackaged products are made at the latest two weeks after production of the order. We are entitled to make partial deliveries.

If the customer is in default of acceptance or otherwise culpably breaches its duties of cooperation, we are entitled to demand compensation for the damage incurred as a result, including any additional costs. We reserve the right to assert any further claims. Where the conditions described above apply, the risk of accidental loss or deterioration of the purchase items passes to the customer at the time the customer enters into default of acceptance or payment.

We reserve the right to exceed specified delivery periods by up to two weeks. In the event of delay due to force majeure, the delivery period will be extended appropriately. Force majeure is defined as events, such as strike, lock-out, war, wartime events, raw material and energy shortage, fire, explosion, law and regulations, local import and export bans, traffic suspensions and other circumstances over which we have no control. In the event of a persisting occurrence of force majeure (duration of more than three months), both parties have the right to withdraw from the contract.

Deviations in assemblage, weight, measurements, or colours which are common in the trade shall not in any case be grounds for complaints regarding the delivery. Liability for colour fastness in plastics is excluded. In the case of customised parts, we are entitled to supply 15 percent more or less than the ordered quantity in exchange for payment/credit note. In the event that we procure special, order-specific raw materials and/or accessory parts for the purpose of production (e.g. varnishes, steels), the customer shall take over and pay for any excess quantities which have not been processed after termination of production, provided we are not responsible for the occurrence of the excess quantities.

If the buyer's default in acceptance leads to a delay in delivery or collection, the seller may charge a flat-rate storage fee of 0.23% of the purchase price for each week (pro rata temporis, if applicable). The seller is also entitled to store the goods with a freight forwarder and to charge the buyer for the actual expenses incurred.

5. PASSING OF RISK IN CASE OF SHIPMENT

If the goods are shipped to the customer at the customer's request, the risk of accidental loss or deterioration of the goods passes to the customer upon dispatch, at the latest upon the goods leaving the works/warehouse. This applies irrespective of whether the shipment of the goods is performed at the place of performance and of who bears the shipping costs.

In the absence of instructions from the customer, shipping will be performed at our discretion. Where the customer provides its own transport vehicles, we are entitled to charge a handling fee of €100.00 plus the applicable VAT.

6. WARRANTY

Warranty rights of the customer are conditional upon the customer's proper compliance with its duties of inspection and notification of defects pursuant to Section 377 of the German Commercial Code (HGB). Supplied goods must be inspected immediately by the customer for completeness and absence of obvious defects. In order to claim the warranty the customer must also immediately inform us in writing of any defects and supply all documentary evidence (description, images, order, specifications, conditions of use) required for this purpose. The customer shall support us in inspecting and rectifying any defects.

We must be informed in writing of any obvious defects without delay, at the latest within five working days from receipt of the goods. The same applies to hidden defects as of the time of their detection. The delivery is deemed approved after the expiry of the applicable notification period. Liability for corrosion damage after delivery in the course of or following storage of the delivery is excluded. In the event of a defect we are, subject to timely notification of the defect, entitled to either rectify the defect or supply a new, defect-free product at our discretion. In any event, we must be given the opportunity to render supplementary performance within a reasonable period. If we could not reasonably be expected to render supplementary performance, we are also entitled to credit invoice amounts or withdraw from the contract. In the event that supplementary performance fails, the customer may withdraw from the contract or reduce the purchase price.

In the event of defective partial deliveries, no rights may be asserted concerning the remaining quantities, unless the partial delivery is of no interest to the customer.

Unless otherwise agreed in writing, warranty claims lapse after 12 months from the passing of risk [with the exception of warranty cases which have arisen due to intent or gross negligence of the supplier, breach of an undertaken guarantee or due to the German Product Liability Act. In these cases, warranty claims lapse in accordance with the statutory provisions].

No warranties are granted for insignificant deviations from the agreed properties, for insignificant impairment of usability, for natural wear and tear or for damages which, following transfer of risk, result from incorrect or negligent treatment, excessive use, unsuitable operating materials, defective construction works, unsuitable foundations or due to special external impacts which were not provided for under the contract. No warranties are granted for maintenance or modifications performed unprofessionally by the customer or third parties, or for the consequences of such actions. Claims of the customer for additional expenses incurred due to the supplementary performance, particularly transport, travel, work and material costs are excluded if the expenses are increased because the goods delivered by us were subsequently transported to a location other than the business address of the customer, unless such transport is an inherent element of the intended use of the goods. Unless otherwise agreed, the properties of the products are defined by the product specifications of the SUPPLIER. The warranty extends to production defects under the conditions of use which comply with the standard applicable to the product specification, as described in European Standards EN 1501-5 and EN 840.

The maintenance, modification or exchange of parts during the warranty period does not result in an extension of the original warranty period.

The warranty lapses in the following cases:

- in the event of transport damage or inappropriate storage by the DISTRIBUTOR;
- if the product is used inappropriately, particularly if it is exposed to excessive stress (mechanical, chemical, electrical, thermal load) that exceeds the requirements of the standards EN 840 and EN 1501-5.
- in the event of defective installation or repair on the part of the DISTRIBUTOR or third parties without authorisation by the SUPPLIER;
- if improper use of the goods results in defects or damage;
- in the event that trademarks, serial numbers or the sealing of goods are changed;
- if the products are exposed to harmful chemicals;
- if hauling and lifting equipment (levelling bars, lifting equipment, etc.) are used which are described as unsuitable in standard EN 1501-5.

The warranty does not apply to wear parts such as fuses, batteries, RAM cards, etc.

WITH REGARD TO THE PRODUCTS SOLD ACCORDING TO THE CONTRACT (INCLUDING APPENDICES), THE SUPPLIER EXCLUDES ALL GUARANTEES, WHETHER EXPLICIT OR IMPLIED, INCLUDING THE IMPLIED ASSURANCE OF USABILITY FOR A PARTICULAR PURPOSE.

7. LIABILITY

We are liable without limitation in the event of intent and gross negligence. In the event of slight negligence, we are only liable (i) for personal injury or death; (ii) for damage resulting from a breach of an essential contractual duty (i.e. a duty the fulfilment of which enables the proper implementation of the contract in the first place and in the fulfilment of which the customer does and may regularly rely); however, in this case liability is limited to foreseeable, typically occurring damage. The limitations of liability in the preceding paragraph do not apply where we have maliciously concealed a defect or assumed a guarantee for the quality of the products. The same applies to claims of the customer pursuant to the German Product Liability Law (Produkthaftungsgesetz). Any further liability of our company is excluded.

8. RIGHT OF RETENTION

The customer may only offset undisputed, legally established or acknowledged claims against our claims. The customer has no right of retention due to disputed counter-claims. Unless otherwise agreed the customer is responsible for ensuring compliance with all laws and regulations concerning import, transport, storage of data and use of the goods.

9. RETENTION OF TITLE

We reserve ownership in the supplied goods until full payment of all claims from the supply contract has been received. This also applies to all future deliveries, even if we do not always explicitly refer to this provision. We are entitled to reclaim the object of sale if the customer is in breach of contract. This also applies if payment for specially designated claims is made. The modification and processing of goods which are subject to our retention of title is performed by the customer on behalf of us as the manufacturer in the sense of Section 950 BGB. The processed goods are deemed subject to our retention of title in the sense of the above paragraph. In the event of the customer's processing, combining and mixing of the reserved goods with other goods, we are entitled to co-ownership in the new product equivalent in extent to the invoice value of the reserved property in proportion to the invoice value of the other goods used. If our ownership lapses due to combining or mixing, the customer hereby assigns to us the ownership rights to which it is entitled in the new goods or the object, to the extent of the invoice value of the reserved goods with immediate effect, and shall store the new goods free of charge on our behalf. The customer's claims from the resale of the reserved goods or the hiring out of the same are herewith assigned to us with immediate effect. In addition, the customer assigns to us the remainder in the reserved goods for the purposes of security. Any claims or remainders ceded hereby serve the purpose of securing our claims to the same extent as the reserved goods themselves. We herewith accept the assignment. If these goods are sold or hired out by the customer together with other goods which were not supplied by us, the assignment of the claim from the resale/hire only applies up to the amount of resale or hire value of the sold or hired-out reserved goods. When goods in which we hold a co-ownership share are sold or hired out, the assignment of the claim only applies to the extent of that co-owned share. The customer is only authorised to resale or hire out the reserved goods under the above conditions and only in the scope of the regular conduct of business, but not where the goods are supplied for the customer's own use and not if the customer has ceased to render payments. At our request, the customer shall, at any time, inform us of the names of the debtors involved in the assigned claims and inform the debtor of the retention of title and assignment. In all other cases, resale requires our prior written authorisation. This also applies to materials which have been transferred to us as security. The customer shall treat the purchase item with due care as long as ownership has not yet passed to the customer. In particular, the customer shall insure the goods at its own cost against theft, fire and water damage to an adequate extent, covering their value as new (please note: this is only permissible where high-value goods are sold). Where maintenance and inspection works are required, the customer shall perform these in good time at its own cost. While ownership has not yet been transferred, the customer shall inform us immediately in writing if the supplied object is pledged or otherwise exposed to interference by third parties. If the third party is unable to compensate us for the court and out-of-court costs of legal proceedings pursuant to Section 771 of the German Code of Civil Procedure (ZPO), the customer shall be liable for our loss.

The customer is entitled to resell the reserved goods in the course of ordinary business proceedings. The customer hereby, with immediate effect, assigns to us the claims against the purchaser from the resale of the reserved goods, to the extent of the final invoice amount (including VAT) agreed with us. This assignment applies irrespective of whether the purchase item is sold on without or after processing. The customer remains entitled to collect the claim after the assignment. This is without prejudice to our right to collect the claim ourselves.

However, we will refrain from collecting the claim for as long as the customer fulfils its payment obligations from the proceeds taken, is not in default of payment and, especially, no application to open insolvency proceedings is filed, or bankruptcy occurs.

10. DOCUMENTATION PROVIDED / PROPERTY RIGHTS

We reserve the property rights and copyright in all documents provided to the customer together with the order assignment, such as calculations, drawings, etc. These documents may not be made accessible to third parties unless we give the customer our express written consent to do so. If we do not accept the customer's offer within the period stipulated in Section 2, the documents must be sent back to us without undue delay.

Any drafts, drawings and tools (including silk screens) produced by us must be used exclusively for production on our behalf and only by ourselves or a third party instructed by us. Tools produced by us or on our behalf by a third party for the purpose of implementing an order by the customer will be charged to the customer at the agreed rates. The customer warrants that the production and supply of objects produced to its specifications do not violate the property rights of third parties. In the event of a culpable breach of this obligation, the customer shall upon first request indemnify us against all resulting claims. Moulds, templates and other equipment remain our property.

The customer is granted a non-exclusive licence to use the software provided by us, unless otherwise agreed in the software's terms and conditions of use. The software provided by us may not be provided or sub-licensed to third parties without our consent. The customer is only entitled to process or edit the software if this is necessary for its intended use, to combine it with other software or to rectify errors, and only if we fail to supply the information necessary for this purpose upon the customer's request. Any reverse engineering of the software code (decompilation) in the sense of Section 69e of the German Copyright Act (UrhG) is only permissible to produce interoperability in the supplied software, and only if we fail to supply the information required to produce interoperability despite prior request. We must be informed of any editing and duplication permitted hereunder. No other reverse engineering is permitted.

11. MISCELLANEOUS

Should one or more of the above provisions be or become invalid, the validity of the remaining provisions will be unaffected. The parties will negotiate an acceptable replacement provision in good faith which approximates as closely as possible to the invalid provision in accordance with the purpose of the contract.

Our GTC and the entire legal relations of the parties are governed by the law of the Federal Republic of Germany, to the exclusion of UN law on the sale of goods (CISG).

The place of performance and exclusive place of jurisdiction for all disputes is our business seat in Herford, unless the order confirmation stipulates otherwise.