

General Terms and Conditions of Sale and Delivery of Angst+Pfister AG (Version 2010, 1.2)

1. Scope of application, offers

1.1 These General Terms and Conditions of Sale and Delivery shall apply to all purchase and delivery agreements concluded between Angst+Pfister AG (hereinafter referred to as "Seller") and its customers (hereinafter referred to as "Buyer"), except where otherwise agreed. They shall in all cases take precedence over all alternatively worded conditions supplied by the Buyer.

1.2 The offers shall not be binding unless confirmed by us in writing.

1.3 The documents and information as to quality and characteristics forming part of the offer shall not be construed as assurances or warranties and shall not be binding unless confirmed by us in writing.

1.4 Discrepancies between the items supplied and the customer's specifications shall be permitted as allowed for in the technical standards confirmed by us in writing.

2. Prices

2.1 The prices shall not be binding unless confirmed by us in writing and, except where otherwise indicated, shall be exclusive of value added tax, freight, postage and packaging.

2.2 In order to partially offset the order handling costs on invoices with a value below CHF 200 a surcharge of CHF 75 will be applied, except where otherwise previously agreed or when the order is placed through our APSOparts online shop.

2.3. Orders shall be placed in writing (email, fax, letter). The Buyer may place an order via an electronic marketplace following agreement. Any costs charged by the marketplace provider shall be borne by the Buyer. Orders placed through EDI connections shall require joint agreement.

3. Payments

3.1 Invoices shall be payable within thirty days from the invoice date, and net without any deductions of any kind, except where otherwise agreed in writing.

3.2 Any discount agreed upon shall always relate only to the invoiced value excluding value added tax, freight, postage and packaging.

3.3 The date of receipt on the Seller's account (value date) shall be the criterion by which the adherence to the payment period and entitlement to a discount are assessed.

3.5 If the payment period is not adhered to, the Seller shall, without previous reminder, be entitled to charge default interest of 9% plus CHF 25 administrative costs, from the date on which payment is due.

3.6 Failure to comply with the payment conditions shall, without prejudice to his other rights, release the Seller from the obligation to deliver. In addition, the Seller shall be entitled, if there is a well-founded assumption that the Buyer will not perform a material part of his obligations, to demand payment in advance for further orders.

3.7 Claims by the Buyer that are contested by us or that have not been legally confirmed shall not entitle the Buyer to withhold or offset payment.

4. Deliveries

4.1 The EXW delivery condition of the Incoterms 2010 of the International Chamber of Commerce shall apply to all our purchase and delivery agreements, except where otherwise agreed in writing.

4.2 Delivery periods and dates shall be considered to have been complied with if the item to be supplied has been handed over to the shipping agent / carrier within that period.

4.3 Delivery periods shall be extended for an appropriate time in the case of events caused by force majeure which are outside the Seller's influence. This shall also apply if the circumstances affect upstream suppliers. The Seller shall notify the Buyer of such circumstances without delay. If performance of the contract should become unreasonable for either of the two parties for the reasons mentioned hereinbefore, the party may withdraw from the agreement.

4.4. Returns for which the Seller cannot be held liable shall be charged to the Buyer.

4.5 The Seller shall be permitted to carry out partial deliveries, except where otherwise agreed in writing. Delivery of up to 10% more or less than the quantity agreed upon shall be permissible.

4.6 If the delivery is delayed for reasons for which the Buyer is responsible, or if the Buyer refuses to take delivery, the Seller reserves the right to store the items for delivery on behalf of and at the risk of the Buyer.

4.7 The Seller shall supply the Buyer in accordance with ISO 9001:2008 certified processes. Additional demands of the Buyer shall require a separate agreement.

5. Warranty, liability

5.1 The Seller undertakes to execute the order in accordance with the agreement and to fulfill his warranty obligations. Any further liability towards the Buyer for any loss whatsoever (direct or indirect) is, to the extent permitted by law, declined.

5.2 The Seller's products shall be inspected in accordance with Acceptance Quality Level 2.5/ Check Level S3, except where otherwise agreed.

5.3 Complaints regarding any identifiable defects shall be reported to the Seller in writing immediately after receipt of the goods, or at the latest within eight days. Complaints regarding any hidden defects shall be reported to the Seller in writing immediately after discovery, or at the latest within three months. If the complaint has not been filed in due time, all warranty claims shall become void. The Seller's warranty shall be limited to manufacturing or material defects, which he may rectify at his discretion by reworking or replacement. Claims of the Buyer for damages, cancellation or reduction of the purchase price shall be explicitly excluded. If the Seller should not be able to replace the goods, or should the Seller refuse to do so, the Seller shall reimburse the purchase price.

5.4 The Seller shall not be held liable for any loss or damage during shipment of goods. Any claims for such loss or damage shall be addressed direct to the delivering freight office or carrier.

6. Restriction of liability, limitation of claims

6.1 The Seller shall not be liable for breach of contractual and extra-contractual obligations by himself or his employees, in particular due to impossibility, delay, default in contract formation or impermissible action, except in case of intent and gross negligence restricted to loss or damage foreseeable at the time the agreement was concluded. The Seller shall not be liable for lost profit and consequential loss or damage.

6.2 Unless otherwise agreed, any contractual claims which the Buyer is entitled to in connection with the delivery of the goods shall fall under the statute of limitations within one year after the goods have been delivered to the Buyer. This limitation period shall also apply to such goods which, according to their normal purpose of use, have been used for construction works related to real estate property which have caused damage within this construction, unless this purpose of use has been agreed upon in writing. This limitation period shall not apply to our liability resulting from breaches of contract caused by wrongful intent or by our gross negligence; neither shall it apply to any of the Buyer's statutory rights of redress. In cases of replacement, the limitation period shall not start again.

7. Copyrights, patent rights, design and trademark rights

7.1 The Seller reserves ownership of and copyright in offers, drafts, drawings and other documents. The latter shall be made accessible to third parties only with the Seller's agreement. Drawings and other documents forming part of offers shall be returned on request.

7.2 If the Seller has delivered goods in accordance with drawings, models, samples or other documents supplied by the Buyer, the Buyer shall warrant that these do not infringe the intellectual property rights of third parties. If, claiming superior rights, a third party forbids the Seller in particular to manufacture and deliver such objects, the Seller shall be entitled – without being obligated to verify the legal position – to discontinue any further activity in this regard and to claim damages if the Buyer is at fault. In addition, the Buyer undertakes to indemnify the Seller and hold him harmless in respect of claims by third parties in connection with an infringement of their rights.

8. Test parts, molds, tools

8.1 If the Buyer has to provide test parts, molds or tools for the execution of the order, the same shall be supplied in due time, free of payment and defect, to the production site in the agreed quantity, or else with a suitable additional quantity for potential rejects. If this is not done, the costs caused thereby and other consequences shall be borne by the Buyer.

8.2 The costs for the production of test parts including the costs for models and tools shall be borne by the Buyer, except where otherwise agreed in writing.

8.3 The property rights in the models, tools and other devices required for the production of parts ordered shall depend on the agreements concluded. If the molds, tools or devices become unusable prior to completion of the order, the costs necessary for replacement shall be borne by the Seller.

8.4 With respect to tools, molds, and other devices provided by the Buyer, the Seller's liability shall be limited to the same care as exercised in own matter. Costs for servicing and care shall be borne by the Buyer. The Seller's obligation to keep the same shall expire – regardless of the property rights of the Buyer – at the latest two years after the last manufacture from the mold or tool.

9. Concluding provisions

9.1 No variation of or amendment to these stipulations shall be valid unless made in writing. The same shall also apply to any waiver of the requirement for the written form.

9.2 Purchase and delivery agreements as well as individual rights and obligations resulting therefrom may be transferred only subject to the written approval of the other contracting party.

9.3 Unless the agreement specifically provides otherwise, the place of performance for all contractual obligations shall be the place where the Seller has its registered office.

9.4 If, on whatever grounds, one or more stipulations of these General Conditions of Sale and Delivery are or become ineffective either in whole or in part, the other stipulations shall remain in effect unchanged. The contracting parties undertake to agree on replacement stipulations which represent as closely as possible the content of the ineffective stipulations.

9.5 All agreements shall be governed by and construed in accordance with Swiss law only, excluding the United Nations Convention on Contracts for the International Sale of Goods as amended on April 11th 1980 and the Convention on the Law Applicable to International Sale of Goods as amended on June 15th 1955.

9.6 The ordinary courts of Zurich, Switzerland, shall have exclusive competence to decide on all litigation arising out of or in connection with individual purchase or delivery agreements. The Seller reserves the right to take action against the Buyer at his registered office and/or domicile.

Appendix: Supplementary Terms and Conditions of Sale and Delivery for Framework Agreements

1. Contract term

All framework agreements shall be based on a term agreed upon by both parties.

2. Minimum make-and-hold quantity

The Buyer undertakes to purchase a fixed minimum purchasing quantity (minimum make-and-hold quantity) per stock-keeping unit for each partial delivery. The minimum make-and-hold quantity shall be agreed upon by the parties with binding effect before the contract is concluded.

3. Readiness to deliver

The Seller undertakes to reserve in stock for the Buyer a quantity of items per stock-keeping unit agreed upon by the parties (quantity held in readiness for delivery) and to have them ready for delivery immediately upon request by the Buyer.

4. Number of requests

For the term of the framework agreement, the contracting parties shall agree upon a fixed number of partial deliveries (make-and-hold orders). Should the Buyer wish to purchase further make-and-hold quantities at a later date the Seller shall, in order to cover the logistics costs incurred by the additional make-and-hold orders, be entitled to charge the Buyer a logistics costs flat rate for each additional partial delivery.

5. Undertaking to buy

The Buyer shall purchase the entire contractual make-and-hold quantity agreed upon within the contract term. Should make and-hold goods not be purchased in accordance with the contract, the Seller shall be entitled to deliver them on the date agreed upon in the contract and to charge them to the Buyer.

6. Prices

In the case that the material price index according to the WDK-index and kiweb.de-index (raw material index of the Wirtschaftsverband der deutschen Kautschukindustrie e. V. and Kunststoff Information Verlagsgesellschaft mbH) for raw materials changes during the contract term the seller reserves the right to implement a price adjustment. The seller shall inform the buyer of the adjustment in advance.