



## Delivery and Payment Conditions of Remy & Geiser GmbH

### I. General Provisions

1. Our terms and conditions below shall apply exclusively for all deliveries and services. This shall also apply for any future transactions between us and the purchaser.
2. Deviating purchasing conditions of the customer shall not become part of the contract, even by acceptance of the order and even if we do not expressly object to them. A contract shall be entered into upon our written order confirmation. Our offers shall be subject to confirmation and non-binding unless expressly stated differently. Oral side agreements shall only take legal effect by our written confirmation.

### II. Price and Payment

1. The prices and shipping conditions specified in our written order confirmation shall apply. We shall not be bound to previous prices for subsequent orders. In case of orders on call, the purchaser hereby agrees to an appropriate increase of the prices specified in the order confirmation if any deliveries are still pending 12 months after the date of the order confirmation and if the constellation has changed.
2. Our invoices shall be payable as follows: in Euro: with 2 % discount within 14 days after the date of the invoice, or pure net within 30 days after the date of the invoice. The discount shall only be granted for the value of the goods excluding secondary costs. Discounting shall only be permissible if all other invoices that are due have been paid. Three months' acceptance (from the date of the invoice) shall only be permissible under the condition that our bank discounts the bill of exchange without delay. Secondary costs for the bill of exchange shall be at the purchaser's expense.
3. In case of default of payment, we shall have the right to charge default interest amounting to 8 percentage points above the base interest rate per annum.  
The seller shall have the right to perform or render any outstanding deliveries or services against advance payment or collateral only if he gains knowledge of any situation that is suitable to essentially reduce the client's creditworthiness after conclusion of the contract and that endangers payment of the outstanding claim of the seller from the respective contractual relationship (including claims from other single orders subject to the same framework contract) by the client.
4. The purchaser shall only have a right to retain payments or to set off against counterclaims if his counterclaims are undisputed or have been legally validly determined.
5. We shall also have the right to claim damages due to non-performance and/or to declare rescission of the contract according to the stipulations of the law.

### III. Performance of the Delivery

1. Deliveries shall be made ex works.
2. The delivery period specified in the order confirmation shall apply. It shall not commence before complete clarification of all execution details or before provision of any documents or releases that may have to be provided by the purchaser or the delivery of reinforcement parts to be performed by the purchaser or third parties charged by him.
3. The indicated periods and deadlines for deliveries and services shall always be approximate if no fixed period or date has been expressly promised or agreed on. If shipping was agreed on, delivery periods and dates shall refer to the time of handover to the forwarder, carrier or other third party charged with transport. If we enter default, the purchaser must grant us an appropriate grace period of two weeks. The purchaser may declare rescission of the contract after the end of this period.
4. Partial deliveries shall be permissible if:
  - the partial delivery can be used by the customer in the scope of the contractual intended purpose,
  - the delivery of the remaining ordered goods is ensured and
  - no considerable additional effort or costs that are caused for the customer by this (except if we agree to pay for these costs).
5. Ordered quantities may be exceeded or undercut by up to 10 %.
6. For orders on call, we shall have the right to, at our discretion, demand acceptance of the quantity not accepted yet and to invoice it, or to reject delivery and claim damages due to non-compliance after the end of the agreed period for acceptance under stipulation of a grace period of 14 days.
7. If non-compliance with the delivery period is due to force majeure, labour dispute or other events outside of our scope of influence, the delivery term shall extend appropriately. This shall apply even if these events affect our suppliers. The purchaser shall be informed of the commencement and end of such circumstances as soon as possible. Both parties may declare rescission of the

contract if the above circumstances continue for more than 6 months. In case of any temporary obstacles, the periods for delivery or performance shall extend or the delivery or performance dates shall be delayed by the period of the impairment plus an appropriate start-up period. Where it is not reasonable for the purchaser to accept the delivery or service due to the delay, he may declare rescission of the contract by written notice without delay.

8. The delivery period shall be deemed complied with at timely notification of readiness for dispatch if dispatch is impossible for a reason that is not our fault.
9. The shipping method is left to our choice. The purchaser's wishes shall be considered as far as possible. Transport insurance shall only be taken out at the purchaser's express request and at his expense.
10. If the seller enters default with a delivery or service, or if the delivery or service becomes impossible for him for any reason, the seller's liability shall be limited to damages according to the proviso of item VI. of these delivery and payment conditions.

### IV. Passing of Risk, Acceptance

1. The risk shall pass to the purchaser when the object of the delivery has left the factory, even if partial deliveries are made or if we have assumed any additional services, such as shipping or delivery and setup. Where acceptance is required, it must be performed without delay on the acceptance date, or alternatively upon our notification of readiness for acceptance. The purchaser must not refuse acceptance if there is a defect that is not essential.
2. If dispatch or acceptance is delayed or not performed for reasons that are not due to our fault, risk shall pass to the orderer on the day of the notification about readiness for dispatch or acceptance.

### V. Claims from Defects

1. The warranty period shall be one year after delivery or, where acceptance is required, after the acceptance date.
2. The purchaser must inspect the goods for correct quantity, quality and design without delay after receiving them.
3. Complaints about any obvious defects or other defects that could have been recognised at careful inspection without delay must be reported to us in writing without delay, and no later than 14 days after receipt of the goods. Complaints about any other defects shall be dispatched to us in writing no later than 14 days after the time at which the defect became known. If the purchaser could have noticed the defect at an earlier time in regular use, the earlier time shall be essential for commencement of the period for submitting the complaint. Defects shall not entitle to retention of the due amounts of the invoice. Claims for defects shall lapse if a complaint for defects is not made in the due form or time.
4. Justified complaints about defects that are raised in the due form and time shall be considered up to the amount of the value of the goods delivered, at our discretion either by a replacement delivery or by reimbursement for the value reduction. In case of failure, i.e. if improvement or replacement delivery is impossible, unreasonable, refused or inappropriately delayed, the purchaser shall have the right to declare rescission of the contract or to apply an appropriate reduction of the purchasing price. If a defect is due to our fault, the purchaser shall have the right to claim damages under the prerequisites named in number VI.
5. No warranty shall be assumed specifically if the defect is due to: unsuitable or improper use, defective assembly or commissioning by the purchaser or third parties, omission of the prescribed maintenance and care work, natural wear, defective or careless treatment, improper maintenance, consumables and raw materials that are unsuitable or deviate from our specifications, defective construction work, unsuitable building ground chemical, electrochemical or electrical influences or other ambient or usage conditions that do not correspond to our specifications unless due to our fault.
6. If the purchaser or a third party unsuitably improves the object of the delivery, we shall not be liable for any consequences arising from this. This shall apply accordingly for any changes made to the object of the delivery without our consent. The warranty shall lapse if improvement is made impossible or unreasonably more difficult because the purchaser modified the object of the delivery or had it modified by third parties without our consent.



In any case, the client shall assume the additional costs for removal of defects that were caused by the modification.

7. Recommendations and indications regarding quality or the intended purpose of the goods delivered by us are made according to our best knowledge but must not be considered binding.
8. If any components from other manufacturers are subject to defects that we cannot remove for reasons of license law or for factual reasons, we shall, at our discretion, assert our warranty claims against the manufacturers and/or suppliers for the account of the purchaser or assign these claims to the purchaser. In case of such defects, the purchaser shall only be due warranty claims against us under the other prerequisites and according to the proviso of this condition if the statutory enforcement of the above claims against the manufacturer and/or supplier was unsuccessful or has no expectation of succeeding, e.g. due to insolvency. Expiration of the respective warranty claims of the purchaser against us shall be inhibited for the duration of the legal dispute.

#### **VI. Liability for Damages due to Fault**

1. Our liability for damages, no matter the legal reason, particularly due to impossibility, default, defective or incorrect delivery, violation of the contract, violation of obligations in contract negotiations and tort, shall be limited according to the proviso of this number VI where fault is of the essence.
2. We shall not be liable in case of simple negligence of our bodies, legal representatives, employees or other servants except in case of violation of obligations that are essential for the contract. Obligations essential for the contract shall be obligations for timely delivery and installation of the object of the delivery, its freeness from defects that impair its function or suitability for use more than inessentially, as well as consulting, protection and custodial obligations that are to enable the purchaser to contractually use the object of the delivery or that are targeted at the protection of life or limb of the purchaser's staff or protection of his property from essential damage.
3. Where we are liable for damages due to the facts according to VI. no. 2, this liability shall be limited to damage that we were able to foresee as a possible consequence of violation of the contract when entering into the contract, or that we would have had to foresee if applying common diligence. Indirect damage and consequential damage due to defects of the object of the delivery shall also only be subject to reimbursement where such damage is typically expected at intended use of the object of the delivery.
4. In case of liability for simple negligence, our obligation to reimburse for property damage and resulting additional financial damage shall be limited to an amount of 5 M € for each damage case, even in case of violation of essential contractual obligations.
5. The above exclusions and limitations of liability shall apply at the same scope to the benefit of our bodies, legal representatives, employees and other servants.
6. Where we provide any technical information or act as consultants

and where this information or consulting is not part of the contractually agreed scope of services owed by us, this service shall be free of charge and under exclusion of all liability.

7. The limitations of this item VI. shall not apply for our liability due to wilful conduct, for guaranteed property features and due to violation of life, body or health or under the product liability act.

#### **VII. Retention of Title**

1. All delivered goods shall remain our property until the purchaser has met all of his payment obligations. This retention of title shall also include any new products produced by processing of the delivered goods or by their combination with other parts. In case of combination with third-party material, we shall receive joint title that the purchaser shall keep for us. When the purchaser sells the new product, it shall be replaced by the purchasing price claim that is due to the purchaser from the new sale as collateral. The purchaser hereby assigns all claims arising from such sales, including all side agreements, to us. If the value of our collateral exceeds our claims by more than 10 %, we shall be obliged to release collateral at our choice on the purchaser's demand.
2. Pledging and other dangers to our property must be reported to us without delay. The purchaser shall bear the costs for interventions.

#### **VII. Property Rights**

1. If we deliver any objects according to drawings, models or samples provided by the purchaser, the purchaser shall assume the warranty towards us that production and delivery of the objects does not violate any third-party property rights. The purchaser commits to indemnifying us against any damages claims of third parties without delay and to assume liability for all direct and indirect damage resulting from the violation of property rights.
2. Submitted samples or drawings shall only be returned on request. Otherwise, we shall have the right to destroy them 3 months after issuing the offer.

#### **VIII. Place of Performance and Place of Jurisdiction**

The place of performance shall be Anhausen; the place of jurisdiction for either party shall be the district court (Amtsgericht) of Neuwied or the regional court (Landgericht) of Koblenz as far as permissible by law.

#### **IX. Miscellaneous**

1. All legal relationships between us and the purchaser, as well as those who are liable for his obligations, shall be solely subject to the substantive law of the Federal Republic of Germany, under exclusion of foreign law and under exclusion of the provisions of the CISG.
2. If one or several of the above provisions are invalid, all other provisions shall remain fully valid.