

General Terms and Conditions Ratioplast-Optoelectronics GmbH

§ 1 Offers

1. These General Terms and Conditions of Sale and Delivery shall apply to all current and future contracts concerning supply of goods or other services, including contracts for supply of labour, work and materials. They are exclusively binding; we do not recognise any terms of the Customer which contradict or deviate from our terms and conditions, unless we have expressly agreed to their validity in writing. Our Terms and Conditions of Sale and Delivery shall also apply in cases where we are aware of the Customer's contrary or deviating terms, yet perform our supply commitment to the Customer without reservation.
2. Our offers are non-binding. Verbal agreements and assurances from our employees have no validity unless confirmed by us in writing.
3. The information, drawings, figures, technical data, specifications of weight, measurements and services contained in brochures, catalogues, newsletters, advertisements and price lists, or in the documents accompanying an offer, are without obligation, unless expressly designated as binding in the order confirmation.
4. Unless otherwise agreed, any individual, written tenders drawn up by the manufacturer must be seen as binding contractual offers for a period of 3 months; thereafter they are non-binding.
5. Rights arising from sales and supply contracts concluded with us cannot be transferred from the Customer to a third party without gaining our prior written consent.
6. All agreements concluded between us and the Customer for the purpose of executing this contract, have been set down in writing within this contract.

§ 2 Confirmation of order

1. Upon placing an order, the customer shall accept the terms and conditions of delivery. All agreements, modification or amendments require our written confirmation.
2. In the event that no order confirmation is sent, the invoice shall be regarded as confirmation of the order. If there is reasonable doubt concerning a Customer's creditworthiness or ability to pay, or concerning the propriety of his business actions, and if, despite having been requested to do so, the Customer is unwilling to make advance payment or to provide suitable collateral for the service owed by him, we shall be entitled to cancel the contract.

§ 3 Delivery

1. Delivery periods shall commence on the day of order confirmation. If we fail to deliver by the agreed deadline, the Customer is not entitled to compensation for damages, performance of a covering purchase, or withdrawal from the contract. Partial deliveries are admissible in all cases. Each partial delivery shall be regarded as a separate transaction and has no influence on the unfulfilled part of the order.
2. Should the Customer be in default of acceptance, or should he be culpable of violating other duties to cooperate, we shall be entitled to demand compensation for the losses incurred by us, including any possible additional expenditure. The right to make any further legal claims shall be reserved.
3. Instances of force majeure, particularly unforeseeable operational, traffic or dispatch disturbances, fire damage, floods, unforeseeable shortage of labour, power, raw materials, strikes, lockouts, official directives or other hindrances for which we are not responsible and which decrease, delay or render unreasonable the manufacture, dispatch, acceptance or use of the goods, shall entitle us to postpone the delivery for the duration of the hindrance plus an appropriate initial period, or to terminate the contract to the extent that it has not been fulfilled. Claims for damages, covering purchase, or subsequent delivery are excluded.

§ 4 Transportation risk

1. The risk of destruction, loss, or damage of goods shall pass from us to the Customer, as soon as the goods have been dispatched by our vehicles or forwarding agents and transferred to the Customer or, in case of pick-up by the Customer, as soon as goods have been prepared for dispatch. To the extent that the conditions of § 3 para. 2 apply, the risk of accidental loss or deterioration in the object of sale shall pass to the Customer at the time when default of acceptance or debtor's delay occurs. Goods not accepted by the Customer will be warehoused at the Customer's expense and risk.

2. Dispatch is effected to the best of our judgement, but without guarantee for the cheapest shipment method and with exclusion of any liability. Shipment is at the risk of the recipient. To the best of our ability, goods shall be delivered in standard packaging, but excluding insurance. Transport and liability insurance is only taken out at the Customer's express request and at his expense. Express goods are always treated as non-prepaid orders.

§ 5 Warranty

1. General:

a) We shall ensure that the products are free from material defects and defects caused by poor processing or construction techniques. The warranty does not cover natural wear and tear, or damage caused by improper handling on the part of the Customer or a third party. We cannot provide any guarantee for special custom orders that have been manufactured according to specifications or construction documents received from the Customer, insofar as the defect is connected to these construction documents.

b) Notwithstanding the customer's duty to examine and notify defects, liability for breach of warranty only arises if we are notified of the defect in writing immediately upon its discovery, and if this is accompanied by supporting documents, samples, packing slips and reference to the invoice number and invoice date. The rejected item should be withdrawn from use as soon as possible. The Customer shall bear the burden of proof in terms of hidden defects.

c) Warranty claims are excluded if the customer processed or sold the goods after he discovered or ought to have discovered the defect. The same applies if the Customer has personally carried out repair work without authorisation. Any guarantee on our part does not apply if our operating or maintenance instructions are not adhered to, changes made to the objects purchased, parts exchanged, or sales materials used which do not meet the original specifications.

2. Promotional claims

a) The Customer shall bear the burden of proof that a promotional claim was causal for his purchase decision.

b) We shall assume no liability whatsoever for promotional claims made by third parties.

3. Claim for supplementary performance

a) The Customer has the right to a reduction in the purchase price, withdrawal from the contract and compensation only if, in the event of a defect, we fail to remedy the defect or to deliver a replacement within a reasonable period of time, or if the defect is not rectified after a second attempt. In the event of remedy of defects, we shall be obliged to bear all necessary expenses, in particular transport, labour and material expenses, except when these increase because the goods are brought to a place other than the place of performance. Goods may only be returned with our consent. The Customer bears the cost of returns, for which he is responsible.

b) The Customer is only entitled to demand remedy of a defect if the object purchased shows a considerable defect. Materiality shall exist if, from the point of view of an objective third party, the value or suitability for use is considerably reduced.

c) We reserve the right to decide if the claim for supplementary performance shall be met by repair or delivery of a replacement.

4. Right of withdrawal

a) With the exception of the settlement of claims and rights concerning a defect, the contracting party is only entitled to withdraw from the contract if we are at fault.

b) If we are obliged to compensate for the loss of value within the meaning of § 346 para. 2 of the German Civil Code, withdrawal from the contract by the customer shall be excluded.

5. Damage and expenditure reimbursement

Should the Customer demand reimbursement of expenditure instead of demanding compensation in lieu of performance, this claim is then limited to the level of expenditure a reasonable third party would have incurred.

6. Statute of limitations

a) The defects warranty period shall apply for 24 months. The warranty period shall commence on the date of delivery. This statute of limitations and the commencement of the period are also valid in the event of a breach of duties beyond material or legal defects.

b) The statute of limitations is not impaired by negotiations commenced at the request of the Customer.

§ 6 Liability

1. Unless otherwise expressly stated in these provisions, the Customer does not have the right to claim damages which have arisen, irrespective of the legal grounds, against us or our employees, co-workers, representatives, other assistants or vicarious agents, due to a breach of contractual, pre-contractual or statutory duties, so long as the breach of these duties was not deliberate or due to gross negligence.

2. Point 1. does not apply if it would exclude liability for a violation of major contractual obligations. In that case, liability is not excluded, but limited to damage which can reasonably be expected.

3. These regulations shall apply to all losses, with the exception of personal injury. Compulsory legal provisions regarding liability, e. g. under the German Product Liability Act, remain unaffected.

§ 7 Payment date

1. Unless otherwise agreed at the time of contract, our invoices shall be issued in euros; payment is strictly net and due within 10 days of the invoice date, provided no other payment date has been agreed. If the agreed payment deadlines are exceeded, the statutory consequences of default shall commence without the need for a reminder. The default interest rate for claims for payment amounts to eight percentage points above the base lending rate; we shall reserve the right to establish and claim for higher default damages.

2. The issuing of bills of exchange requires our explicit consent; they are accepted in lieu of payment.

3. In the event of complaints due to defects, a right of retention may only be claimed if the defect has been accepted by us or legally determined. The Customer is only entitled to the right to offset if his counter claims have been declared final and absolute in a court of law or if they have been recognised by us.

4. Should the value of the recognised defect amount to less than 30% of the total order value, only 30% of the total purchase price may be retained. Instalments should be made within the agreed payment period for the remaining amount of 70%. The right of retention is excluded if defects in the object of sale have been caused by traders.

5. A discount on new invoices is not permitted as long as older invoices are still due for payment. Should the payment deadlines be exceeded by more than two weeks, our total claim resulting from the deliveries shall be due immediately, even if other terms of payment have been agreed to some extent.

6. Further claims for default damages shall remain unaffected.

§ 8 Retention of title

1. The delivered goods shall remain our property until all accounts to which we are entitled from the Customer as a result of the business relationship have been paid in full. If our claim for payment is to be paid under a current account arrangement, and balance of the account has been drawn and accepted, this shall not affect our retention of title. In the event that the Customer is in breach of contract, especially if he is in default with payment, we shall be entitled to demand the provisional return of our goods at the Customer's expense, even without exercising the right to terminate the contract and without setting a period of grace. After taking back the goods, we are entitled to sell them; the sale proceeds, minus reasonable costs of sale, shall be deducted from the Customer's liabilities to us.

2. The Customer shall be obliged to carefully store the reserved goods, to maintain or repair them at his own cost, and to insure them against theft or damage in a manner that can be expected of a prudent businessperson.

3. In the event of levies of execution or other third party intervention, the Customer must notify us without delay in writing, so that we can institute legal proceedings pursuant to § 771 of the German Code of Civil Procedure. In so far as the third party is not capable of refunding us with the cost of the action in and out of court according to §771 of the German Code of Civil Procedure, the Customer shall be liable for our loss.

4. The Customer is entitled to resell the goods in the normal course of his business, as long as he meets his obligations arising from the business relationship with us. However, he must not pledge, transfer ownership as security, or otherwise incriminate goods belonging to us. As a security, the Customer shall assign to us here and now all accounts and rights created by the sale or permitted rental of goods, for which we have rights of ownership. We hereby accept this assignment. The Customer shall remain authorised to collect these accounts even after the assignment. Our authority to collect accounts ourselves shall not be affected by this. However, we shall refrain from collecting accounts as long as the Customer fulfils his payment obligations from the proceeds received, does not fall into arrears, and in particular, provided that no bankruptcy, composition, or insolvency proceedings have been filed, and the Customer has not stopped making his payments. Should this be the case, however, we can demand that the Customer discloses to us the receivables assigned and their debtors, provides all information required for collection, surrenders associated documentation and notifies the debtors (third parties) about assignment.

5. With regard to the processing or manufacturing of the delivered goods subject to retention of title, we shall be deemed to be manufacturer within the meaning of § 950 German Civil Code, without any liabilities accruing to us as a result. If the object of sale is processed with other items not belonging to us, we shall consequently acquire co-ownership of the new thing in proportion to the invoiced value of the delivered goods to the invoiced value of the other objects at the time of processing. The same shall apply to the new thing created as a result of processing as to the object of sale delivered under retention of title. If the object of sale is mixed with other items not belonging to us, we shall consequently acquire co-ownership of the new thing in proportion to the invoiced value of the delivered goods to the invoiced value of the other mixed objects at the time of mixing. If mixing or combining occurred in such a way that the Customer's thing is to be regarded as the main thing, the Customer shall, with immediate effect, assign ownership of the new inventory or object to us, to the extent of the invoice value of the reserved goods, and shall store the goods for us free of charge. Our co-ownership rights shall apply to the reserved goods within the meaning of point 1.

6. At the Customer's request, we shall undertake to release the securities arising from the aforementioned paragraphs, inasmuch as the value of the receivables assigned to us by the Customer through this contract, exceed the value of our accounts to be secured by more than 20%; selection of the securities to be released shall be incumbent upon us.

§ 9 Samples and drawings

1. Property rights and copyrights to all figures, drawings, sketches, other documents and samples shall remain with us. This also applies to written documents designated as "confidential". They must be returned immediately upon request, and may not be disclosed to third parties without our express written consent.

2. Unless otherwise agreed, sample items must be purchased or returned to us within 1 month. Sample items in special custom orders (special custom orders are items which have not been mass-produced and are not included in price lists) must be purchased and cannot be returned or exchanged.

3. If third party rights are violated in connection with the use of consigned drawings, samples and similar aids, the Customer shall assume liability, unless he can prove that it is not his fault.

§ 10 Place of fulfilment and jurisdiction

1. The place of fulfilment for sale and delivery is our company headquarters

2. Our company headquarters is the sole place of jurisdiction for all disputes arising directly or indirectly from the contractual relationship, insofar as the Customer is a business person within the meaning of the German Commercial Code, a legal entity under public law, or a public-law special fund.

§ 11 Final provisions

1. These Terms and Conditions and all legal relationships between us and the Customer shall be exclusively governed by the laws of the Federal Republic of Germany.

2. Should a provision of these Terms and Conditions, or a provision within the scope of other agreements become invalid, the validity of the remaining provisions or agreements shall not be affected as a result.

3. If necessary, pursuant to paragraph 2, the contracting parties shall undertake to effect an agreement without delay, which most closely corresponds legally and economically to the contents of the contract, with due regard to these terms and conditions. This also applies to eventual loopholes in law.

§ 12 Supplementary provisions

Unless otherwise stated within these provisions, the General Terms and Conditions of Delivery for the products and services of Electro-Industry shall apply in addition.

General remarks: It is the user's responsibility to verify whether the devices shown in this brochure, used in special application areas unforeseen by us, comply with the indicated regulations. We shall reserve the right to make design modifications in keeping with quality improvement, further development, or manufacturing requirements.

Lübbecke, September 2008