

# General Terms and Conditions of Supfina Grieshaber GmbH & Co. KG, Wolfach

## I. Scope of Validity

- Supfina Grieshaber GmbH & Co. KG, hereinafter referred to as "Supfina", provides products and services exclusively on the basis of the following General Terms and Conditions. Changes and amendments must be carried out in written form. Any deviating conditions of the contracting party do not apply even if they are not explicitly contradicted in individual cases.
- These General Terms and Conditions also apply to all further contracts without special reference having to be made to them.

## II. Offers, Prices

- All offers remain subject to change unless they have been declared binding.
- With offers designated as binding, a contract is formed if the buyer accepts the offer within a period of two weeks after the offer date. After this deadline expires, Supfina is no longer bound by the offer. Orders result in a final contract only after a confirmation from Supfina. Supfina reserves the right to decline an order or demand collateral.
- Descriptions and dimension data in price lists and technical documents are not binding unless explicitly confirmed in writing. Supfina reserves the right to modify designs and components in the interest of technical development until the date of delivery.
- Supfina's prices do not include the currently applicable Value Added Tax. The prices are ex-works and do not include packaging, freight, postage and insurance and other shipping charges.
- Unless otherwise stipulated, the prices shown in the current Supfina price list are effective. If an order is delivered more than six months after the conclusion of a contract (due to customer's responsibility), the list price valid at the time of delivery applies; if a price other than the list price was stipulated, this price will be increased proportional to the list price increase.
- If at the request of the customer supplemental technical modifications were carried out that led to additional costs for Supfina, these costs will be charged separately.
- Supfina reserves all proprietorship and copyrights on quotations, technical drawings and other tendering documents. These documents may be made available to a third party only with Supfina's consent.

## III. Deliveries, Transfer of Risk

- Partial shipments are allowed and obligate the customer to make a corresponding partial payment, unless the acceptance of the partial shipments is completely unreasonable.
- Deliveries take place ex-works at the cost of the customer. The risk for the merchandise is transferred to the customer when a "ready for shipment" notification is sent, at the latest, however, when the shipment is handed over to the shipping agent or carrier. This also applies to partial shipments and also when Supfina delivers freight prepaid.

## IV. Delivery period and delivery date

- The delivery times specified by Supfina are only approximate and are subject to change, unless fixed deadlines are explicitly agreed upon in individual contracts. These are authoritative only if Supfina has received on time from the customer the documents, permits, and approvals necessary to bring the contract to effect, as well as any prearranged payments.
- In cases of acts of God or circumstances over which Supfina has no control (e.g. measures taken by authorities, strike, lockout, equipment failure, problems with material procurement, traffic disruption, etc., also if they happen to a sub-supplier), the delivery times—also those which are confirmed—will be extended by an appropriate amount. This also applies if the abovementioned circumstances occur when a delivery has already been delayed for other reasons. If due to such circumstances it is impossible or unreasonable for Supfina to fulfill its obligation to deliver, Supfina will be relieved of its obligation. In case the delay in delivery exceeds one month, Supfina and the customer are entitled to rescind the part of the contract not yet fulfilled.
- If after the contract has been concluded the customer requests changes in the order that influence production duration, delivery deadlines must be renegotiated; in case of doubt, the delivery time will be extended proportionately. The same applies if the customer does not properly comply with his obligation to cooperate or to pay.

## V. Payments

- If payment is made within 10 days of receipt of the invoice, a 2% discount can be applied. After 30 days, payment must be made in full.
- Should Supfina's pecuniary claim be endangered by financial difficulties encountered by the customer after conclusion of the contract (this is especially the case if there is an insolvency request or a protest of a bill), Supfina has the right to send cash-on-delivery parcels, to demand payment in advance, to retain merchandise not yet delivered, and to stop work on current orders and to rescind contracts already concluded with the customer, provided that customer does not make an advance payment or provides collateral. Supfina reserves the right to enforce further claims, especially in case of default.
- The customer has the right of retention or an offset only in cases of uncontested or legally binding claims.

## VI. Reservation of Ownership

- The delivered merchandise remains the reserved property of Supfina until all existing or future claims arising from the business dealings are settled. This also applies to cases where individual claims or all claims are included in a current account.
- The customer has the right to resell the merchandise in the normal course balance of which has been calculated and acknowledged. Acceptances, bills of exchange and checks are valid settlements only after their irrevocable redemption of business dealings only if he herewith cedes to Supfina already now all claims he has toward his customer or other third party through the act of reselling. The buyer does not have the right to sell the reserved goods in other ways, such as putting them in pledge or transferring ownership by way of security. If the reserved goods are sold—whether in their original condition or processed and combined with other articles which are exclusively the property of the customer—the customer herewith cedes in full amount the claims which arise through the resale. If the customer sells the reserved goods together with merchandise not belonging to Supfina—after processing/combining—the customer herewith cedes to Supfina the claims in the amount of the value of the reserved goods including all subsidiary rights and priority over the rest. Supfina accepts the transfer. If there is an open account between the customer and his buyer, the transfer not only covers the account balance recognised in § 355 HGB ((German) Commercial Code) but also any surplus that without assessment and approval can be used as payment. Until revocation by Supfina, the customer is authorised, also after transfer, to collect the claims. Supfina's authority to collect the claims is not affected by this; however, Supfina commits itself not to collect the claims and not to revoke the authorisation of the customer to collect the claims as long as he fulfils his financial and any other obligations. Supfina can demand that the customer make known the ceded claims and debtors, provide the information necessary for collection, hand over related documents and give notice of transfer of claims to the debtors. Should the customer process the reserved goods or modify them for Supfina as the manufacturer, this takes place without any commitments for Supfina. If the customer processes, connects, mixes or combines the reserved goods with other merchandise not belonging to Supfina,

Supfina becomes joint owner of the newly created article with a share corresponding to the proportion of its reserved goods to the other merchandise at the time the processing, connecting, mixing or combining took place. If the customer acquires the sole ownership of the newly created article, it is understood that the customer will grant Supfina co-ownership of the newly created article in proportion to the value of the processed, connected, mixed or combined reserved goods, and hold it in safe custody for Supfina free of charge.

- The customer commits to sell the goods delivered by Supfina only on the condition that he reserves ownership of this merchandise until his buyer makes full payment of the purchase price. The customer will also stipulate that if, due to reselling, processing, connecting or combining, the reservation of ownership becomes null and void, an ownership in the newly created article or claims resulting there from will take its place.
- If there is a default of payment or an application to begin insolvency proceedings over the assets of the customer, Supfina has the right to demand the immediate handover of the reserved goods. This act of taking back the goods does not mean a withdrawal from the contract. At the same time, unsettled claims become due for payment. Deposited bills of exchange are to be concurrently redeemed for cash payments regardless of their due date.
- If the value of the existing collateral exceeds the claims by more than 20%, Supfina is obligated, upon request by the customer, to release the collateral that go beyond the value of 120% of its claims. Supfina is free to choose which collateral it will release.
- The customer is obligated to insure the reserved goods against every insurable damage. He will cede in advance the claims resulting from the insurance contract to Supfina and provide on request proof of the conclusion of the contracts.
- If a third party gains access to the reserved goods or the claims existing in its stead, the customer must immediately give notice (relevant documents included) to Supfina.

## VII. Warranty and Liability

- Supfina gives a warranty on defects of quality and title (to the exclusion of further rights) as described in the following clauses. § 377 of the (German) Commercial Code (HGB) is applied.
- Parts that were defective when the transfer of risk took place will be repaired or replaced by Supfina as it sees fit. Notices of defects or customer complaints must be carried out in written form without delay. Replaced parts become Supfina's property again and are to be handed over to Supfina on request.
- The regular warranty period is 12 months. The warranty period for a replaced part and for the repair is six months; it runs, however, at least until the expiration date of the original warranty period of the delivered goods.
- In case of a substitute delivery, Supfina bears the cost of the replacement part, including shipment to the place of delivery originally agreed upon in the contract, but not the cost of disassembly and reinstallation, or other expenditures. If the customer requests that the article be sent to a different location or that Supfina provide services on site, the customer assumes the additional costs which arise hereby.
- If repair or replacement is not possible, or has failed at least two times, or is simply not carried out by Supfina within a reasonable time limit, the customer can deduct from the purchase price, rescind the contract or demand compensation. Enforcing damage claims requires that the customer furnish evidence of Supfina's negligence.
- Supfina does not give a warranty on defects or damage (for which Supfina is not responsible) caused by improper or incorrect use, faulty installation or set-up, excessive loads, normal wear and tear, incorrect or careless handling, unsuitable work equipment, or by chemical, abrasive, electrochemical or electrical influences (provided that these are not contractually required).
- Insofar as permitted by law, liability for damages is ruled out. Supfina is not liable for damages that can be traced to intent or gross negligence, unless the blame can be unequivocally placed on a material contractual obligation and/or an owner or business manager of the company. This exclusion of liability does not apply to cases in which defects of quality or title (due to a reckless breach of duty) lead to loss of life, bodily injury or damaged health.
- Supfina's liability is limited to the net invoiced value of the goods of the shipment which contained the flawed article. Liability is always limited to typically foreseeable damages.
- Supfina does not assume liability for damages that can be attributed to the negligence of a customer who provided incomplete or incorrect information concerning the environmental or operating conditions which influence the functionality of Supfina's products.

## VIII. Confidentiality, Trademark Rights

- The contracting parties mutually commit to strict confidentiality with respect to any third party. The customer is especially under the obligation to keep confidential all business and trade secrets, production methods, other business and trade facts, as well as documents and information from Supfina that become known in connection with the contract, and not make them accessible to a third party.
- Both parties will also impose the above-mentioned obligations on all employees and third parties who (with authorisation) are involved with the contract.
- Supfina reserves all copyrights on all samples, cost estimates, drawings, sketches and other information (also in the form of electronic data). The customer is allowed to use these, as well as any other copyrighted documents or items connected with the delivered article, only in accordance with the terms of the contract. The customer is not allowed to pass these things on to a third party or benefit from them in any way.
- Supfina claims possession of all patent rights connected with the delivered article. The customer will immediately inform Supfina if there is an alleged infringement of patent rights or he gains knowledge of an infringement of patent rights by a third party.
- If during the course of a tendering procedure Supfina gives the customer technical drafts and information, but Supfina is not awarded the contract, the technical drafts and information must be returned immediately and not be made accessible to a third party.

## IX. Other terms

Special agreements in connection with the contract or addenda to these terms of delivery must be carried out in writing in order to be valid. Wolfach is the place of performance. The city of Wolfach is the place of jurisdiction. If Supfina so chooses, the place of jurisdiction can also be where the headquarters of the customer are located. Only German law applies. The terms of the UN Convention on Contracts for the International Sale of Goods (CISG) are explicitly ruled out. If a particular provision of this document is found to be void, a corresponding provision of the German Civil Code (BGB) or the (German) Commercial Code (HGB) will apply in its stead.

In case of doubt the German original text shall prevail.

Wolfach, 21. July 2010