

# General Conditions of Sale\* of IGK-Group (IGK Isolierglasklebstoffe GmbH, IGK Europe GmbH, MIG Systems GmbH)

(\*Translation only. The only legally binding version of this document is the German one.)

## I. SCOPE

- Our Standard Terms and Conditions apply to all of our offers, supplies and services. They apply exclusively; we will only be bound by contradictory or deviating terms of the Orderer if we have expressly accepted them in writing. Our Standard Terms and Conditions will apply even if we supply the Orderer without reservation in the knowledge that contradictory or deviating terms of the Orderer exist.
- Our Standard Terms and Conditions also apply to all pending and future transactions with the Orderer, even if no express reference is made to them, if our Standard Terms and Conditions alone applied to a previous contract.
- All agreements concluded between us and the Orderer for the purpose of the execution of this contract are formulated in writing in this contract. Our Standard Terms and Conditions only apply to entrepreneurs as defined by § 310 Para. 1 German Civil Code [BGB].

## II. DELIVERY

- Unless expressly agreed otherwise, delivery will be from IGK's warehouse.
- If delivery is made in loaned containers, the latter must be returned empty, carriage paid, within 90 days after delivery. The Orderer is liable for any damage to loaned containers for which it can be held responsible.
- Non-returnable packaging will not be taken back.
- a) Our delivery dates are not binding unless otherwise agreed.  
All deliveries are subject to our receiving punctual and correct supplies from our own suppliers. If our suppliers fail to supply, supply incorrectly or supply late, any claims to compensation by the Orderer are excluded. We will notify the Orderer immediately if we fail to receive supplies and assign any rights arising out of our cover contract with our own supplier to the Orderer.  
b) Adherence to our obligation to supply is subject to the Orderer's obligations being satisfied punctually and correctly; recourse to the defence that the terms of the contract have not been fulfilled is reserved.  
c) Force majeure, action associated with labour disputes, action taken by public authorities in Germany or abroad without fault on our part, cut-offs of energy supplies without fault on our part or unforeseeable, serious breakdowns and limitations of production at IGK without fault on our part, including ones due to difficulties with the agreed supply of raw materials and other cases of force majeure, which have persisted or are likely to persist for more than one week will entitle IGK to postpone delivery dates by the duration of the problem concerned.  
As soon as an obstacle to delivery of one of the above-mentioned kinds is clearly apparent, the Orderer must be informed of it immediately.
- If the Orderer comes into default of acceptance or if it culpably breaches any other obligations to cooperate, we will be entitled to demand compensation for our resulting losses, including any additional expenditure. If the above conditions apply, the risk of the accidental destruction or deterioration of items to be delivered will pass to the Orderer when the latter comes into default of acceptance.
- Part deliveries are permissible without any separate agreement being required, as long as it is tolerable for the Orderer.
- Transactions in which part deliveries are agreed (call orders) place the Orderer under an obligation to accept the part deliveries in approximately equal monthly quotas, unless otherwise agreed.

## III. PASSING OF RISK

The risk of accidental destruction or deterioration associated with all deliveries will pass to the Orderer when goods are handed over to the carrier by IGK. In the event of discrepancies in weight or volume for which neither IGK nor the Orderer can be held responsible, the Weight/Volume determined at IGK's plant will apply.

## IV. PAYMENT

- The invoice amount is payable within 30 days from the invoice date, without deduction. Payment will only be regarded as punctual if IGK is able to access the funds credited to the account nominated by it on the due date. Discounts and rebates will only be allowed on the basis of a separate written agreement.
- If payment is late, interest at 5% p.a. above the current EURIBOR rate will be payable from the date when the invoice is issued. This is without prejudice to the right of IGK and of the Orderer to prove a greater loss to prove a lesser one.
- Payment in the form of a bill of exchange is only permissible with the prior agreement of IGK. Bills of exchange will only be accepted without obligation and do not signify any prolongation. All discounting charges, expenses associated with bills of exchange and any other costs incurred must be borne by the Orderer. The settlement of invoices by means of a bill of exchange is only accepted on account of performance.  
The same applies to payment by cheque.
- A significant deterioration in the Orderer's asset position will entitle IGK, without prejudice to any other rights, to only execute orders which it has not yet executed subject to the concurrent condition of simultaneous payment. Under the same circumstances, IGK's claims against the Orderer to payment for orders/portions of orders executed will become due for payment immediately. IGK may choose instead to collect the claims assigned on account of performance or demand the return of the goods subject to reservation of title in the Orderer's possession at the latter's expense.

## V. RESERVATION OF TITLE

- IGK reserves title to items supplied until the purchase price has been paid in full. If the Orderer is a merchant as defined by German law [Kaufmann], IGK also reserves title to items supplied until all of its valid claims against the Orderer arising out of the entire business relationship have been settled in full. In the event of a breach of contract by the Orderer, in particular including default of payment, we will be entitled, after setting a reasonable deadline, to take back goods supplied.  
The taking back of goods represents withdrawal from the contract.
- If goods supplied are processed or combined with other materials, IGK will acquire a proportional share of title to the new item created which corresponds to the ratio of the value of the reserved goods to the value of the new item which results from the processing. The value of the reserved goods and the value of the processed item at the time of processing will apply. If such processing is carried out, the Orderer will act on behalf of IGK, without acquiring any claims against the latter based on the processing. The Orderer is under an obligation to take good care of reserved goods for IGK. If IGK does not acquire a share of title on the combination of more than one item, the Orderer hereby assigns to it the share of title due to it pursuant to Section V Subsection 2 Sentences 1 and 2.
- If a new product is sold on by the Orderer, the relevant share as defined by Section V

Subsection 2 Sentences 1 and 2 of the Orderer's claim to the purchase price arising out of that sale on will serve as security in the place of the product. The Orderer hereby assigns to IGK this share of its claim to the purchase price, and the IGK hereby accepts the assignment.

- If an item purchased is sold on by the Orderer without processing, the Orderer hereby assigns to IGK the claims arising out of such a sale, together with all subsidiary rights, up to the amount of IGK's claim. IGK hereby accepts this assignment.
- If the securities provided exceed IGK's claims by more than 10%, the latter is under an obligation to release the excess securities to the Orderer on demand.
- The Orderer must inform IGK immediately in writing in the event of any execution against reserved goods, goods jointly owned by IGK or claims assigned in advance to IGK or if such goods/claims are exposed to any other third-party action affecting them. The Orderer must inform the enforcing institution and the judgment creditor immediately that title or a share of the title to the relevant items remains with IGK and/or that claims have been assigned to the latter.

## VI. WARRANTY

- IGK supplies goods in accordance with its product descriptions. These are only to be regarded as guaranteeing characteristics of the goods to the extent that they expressly describe characteristics as guaranteed.
- All of the Orderer's warranty rights are subject to the latter having properly satisfied its obligations to inspect and submit complaints imposed by § 377 German Commercial Code [HGB].
- Obvious or detectable defects must be made the subject of a written complaint to IGK immediately, at the latest within three days of the receipt of the goods. Otherwise the goods will be regarded as approved.
- Complaints about concealed defects must be submitted to IGK in writing immediately on their discovery, at the latest within an exclusion period of two weeks after the defects become known. Otherwise the goods will be regarded as approved.
- If a complaint made is justified, i.e. if there is a defect for which IGK can be held responsible, the Orderer is initially only entitled to demand that this be remedied by the supply of a replacement. The Orderer must allow IGK a reasonable time to do this. If an attempt to remedy (supply a replacement) fails, the Orderer will be entitled to choose whether to withdraw from the contract or to demand a reduction in the price.
- IGK will be liable as provided by law if the Orderer makes a claim for compensation on the basis of deliberately caused loss or gross negligence, including the deliberate causing of loss or gross negligence by its representatives or vicarious agents. As long as IGK is not guilty of deliberately breaching the terms of the contract, its liability to pay compensation will be limited to foreseeable losses typical of the type of contract concerned. IGK will also be liable as provided by law if it culpably breaches a primary (cardinal) contractual obligation; in this case IGK will also be liable for slight negligence. Even if a primary contractual obligation is breached, IGK's liability to pay compensation will be limited to foreseeable losses typical of the type of contract concerned.
- The above is without prejudice to liability for culpable injury to life, limb or health. The same applies to the binding liability imposed by the German Product Liability Act.
- Except insofar as otherwise specified above, liability is excluded.
- Liability on the basis of assured characteristics of goods is not limited by the above provisions.

## VII. MISCELLANEOUS CLAIMS FOR COMPENSATION

- Any liability to pay compensation going beyond what is provided in Section VI. is excluded, whatever the legal nature of the claim put forward. This applies in particular claims for compensation by the Orderer based on culpability at the time of the conclusion of the contract, based on miscellaneous breaches of obligation or based on claims in tort for compensation for material damage.
- Where IGK's liability to pay compensation is excluded or restricted, the same will apply for the benefit of its employees, representatives and vicarious agents if a claim is made directly against them by the Orderer.

## VIII. INSTRUCTIONS FOR USE

- IGK's instructions for use only represent general guidelines. Due to the wide variety of uses to which individual products can be put and the variety of particular circumstances which may apply, it is the Orderer's responsibility to experiment for itself.
- Even if IGK provides the Orderer with assistance in connection with the use of goods, the Orderer will bear the risk attached to the success of the work concerned. Any claims which the Orderer may have against IGK pursuant to Section VII are not excluded by this.

## IX. OFFSETTING AND WITHHOLDING

- The Orderer is only entitled to offset counterclaims which are undisputed or legally final and binding against IGK's claims to payment.
- The Orderer is only entitled to exercise a right to withhold if its counterclaim arises out of the same contractual relationship.

## X. LEGAL VENUE AND PLACE OF PERFORMANCE

- The place of performance for all liabilities arising out of the business relationship or individual contract is the place where IGK's registered office is located, unless otherwise stated in the confirmation of order.
- The legal venue is the place where IGK's registered office is located or the Orderer's general legal venue, at IGK's discretion. This includes disputes in the type of summary procedure available for claims for a specified sum or quantity where the plaintiff relies entirely on documentary evidence [Urkundenprozess], the special type of procedure to decide claims arising out of a bill of exchange [Wechselprozess] and legal action concerning the payment of a cheque [Scheckprozess].

## XI. CONCLUDING TERMS

- This contract and all legal relations between the parties are exclusively subject to the laws of the Federal Republic of Germany. Any application of the UN convention relating to the international sale of goods (CISG) is hereby excluded.
- Subsidiary agreements, assurances and amendments and additions to the contract must be confirmed in writing by IGK. No subsidiary verbal agreements have been concluded.
- Should individual provisions of these Standard Terms and Conditions or any other contractual agreements be invalid, in whole or in part, the remaining provisions will nevertheless remain valid. To replace any invalid provision, the contracting parties will agree another valid provision which comes as close as possible to achieving the same economic purpose.

IGK-Group

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