

General Terms and Conditions of Business of MG Optical Solutions GmbH

§ 1 Scope of application / General information

We deliver exclusively on the basis of the following General Terms and Conditions of Business.

We do not recognise customers' terms and conditions that deviate or differ from these General Terms and Conditions of Business unless we have expressly acknowledged the validity of such.

Our General Terms and Conditions of Business apply also for all future transactions with the customer even if they are not appended in the individual case.

§ 2 Quotation / Conclusion of contract

Our quotations are subject to change and non-binding.

The acceptance of a quotation and/or an order by the customer shall be made by written order confirmation.

This order confirmation shall be decisive for the content of the contract. If the customer objects to the order confirmation, it must inform us of this immediately; the contract shall otherwise be concluded according to the order confirmation.

Our quotations, drawings, plans and other quotation documents shall remain our property. The exploitation rights under copyright law shall be ours exclusively.

§ 3 Prices / Terms of payment

The prices stated in the order confirmation exclusive of the respective applicable VAT rate shall be decisive.

The prices are understood as being ex works.

Changes to customs duties or import and export duties that we were unable to foresee at the time of the order shall entitle us to a corresponding price adjustment.

Unless anything to the contrary is noted in the order confirmation, payments shall be due within ten days of the date of invoicing, without deduction.

Cheques and bills of exchange shall be accepted only as conditional payment and shall be valid only after they have been irrevocably credited to our account.

If the customer is in default of payment we shall, without prejudice to our further rights, be entitled to demand default interest at the level of eight percentage points above the respective base rate as well as reasonable dunning fees. If we are able to prove higher damages, we shall be entitled to claim these.

If the customer is in default of payment, we shall be entitled, after setting a reasonable period of grace, to withdraw from the contract and demand damage compensation. No threat of refusal of performance shall be required in this case.

The customer shall be entitled to offset or withhold payments only if its counter-claim is legally established or has been expressly acknowledged by us.

§ 4 Delivery / Delay in delivery

Delivery periods and deadlines are non-binding unless they have been expressly agreed as binding.

The delivery period shall begin with receipt of the order confirmation by the customer, but not before the provision of any permits, approvals or other documents to be procured by the customer as well as any agreed advance payment.

If non-compliance with the delivery periods is attributable to force majeure, the periods shall be extended by an appropriate duration. Regarded in the same way as force majeure shall be all circumstances for which we are not responsible and which have made the delivery impossible or unreasonably difficult for us. These circumstances include, in particular, labour disputes, war, import and export bans, energy and raw material shortages, official measures, serious operational disruption, or delayed delivery to us by suppliers, for which we are not responsible.

If these circumstances last longer than three months, both contracting parties have the right to dissolve the contract. In this case there shall be no mutual compensation claims.

If we are responsible for the exceedance of the deadline, the customer can withdraw from the contract if it has set a reasonable grace period with threat of refusal to accept performance and this period has expired without the delivery being effected. Claims for damages can be asserted only in accordance with § 7.

We are entitled to make part deliveries to the extent that these are not unreasonable for the customer.

§ 5 Transfer of risk / Transport insurance

Our deliveries shall be made ex works.

In the case of shipment we shall arrange transport insurance at the customer's request and cost. Transport damages must be notified to us and the delivering freight forwarder immediately.

§ 6 Warranty

Any claims for defects on the part of the customer require the latter to have properly complied in writing with their obligation under § 377 HGB (German Commercial Code) to examine the goods and notify of defects.

If the goods are defective, we shall be entitled to remedy the situation. The remedial action can, at our choice, be performed by rectification of the defect or delivery of a defect-free item.

The remedial action shall only be deemed to have failed if three attempts have remained unsuccessful.

For damage claims on account of defects § 7 shall apply.

We assume no warranty for damages that arise as a result of changes made to the delivery object without our approval or for consequences of natural wear and tear and improper handling, storage or use.

§ 7 Compensation for damages / Limitation of liability

We shall be liable only for wilful intent and gross negligence. In the case of simple negligence, we shall be liable for damages where there is a breach of a duty, the fulfilment of which is of particular importance for the achievement of the purpose of the contract as well as for damages from injury to life, limb or health; in these cases our liability shall be limited to compensation for the foreseeable, typically occurring damage.

The limitation of liability shall also apply for the personal liability of our employees, representatives and vicarious agents.

The limitations of liability shall not apply if we have fraudulently concealed a defect or assumed a guarantee for the quality of the goods. The same shall apply for claims under the Produkthaftungsgesetz (German Product Liability Act).

In the case of an unjustified cancellation of the order and/or of an unjustified withdrawal from the contract, the customer shall pay a fixed-rate damage compensation sum of 25% of the value of the order.

If in this case we are able to prove higher damages, we reserve the right to claim these additionally.

The customer has the right to prove that no damage at all or significantly lower damage than the above mentioned flat-rate damage compensation has occurred. In this case, only the loss actually incurred shall be compensated.

§ 8 Retention of ownership

We shall retain ownership of all the items we have delivered until payment of all claims from all previous contracts with the customer.

The customer is entitled to resell or process the delivered goods in the ordinary course of business provided it is not in default with payment.

The customer may not pledge or assign as collateral the goods to which we retain ownership.

In the case of processing, mixing or combination we shall acquire a co-ownership share of the newly produced object that corresponds to the value of the goods to which we have retained ownership in ratio to the other processed objects.

The customer hereby assigns to us the receivables that accrue to it from its customers or third parties in the amount of the final invoice amount. We accept this assignment.

The customer shall continue to be entitled to collect the receivable if it fulfils its payment obligations to us and is not in default of payment.

In the case of pledges or other interventions by third parties, the customer shall inform us immediately so that we are able to file third party proceedings.

Costs that we incur in pursuing our rights shall be reimbursed by the customer.

§ 9 Disposal

The customer is obliged to dispose of the delivered goods after the end of their usage properly and at its own costs according to the respective applicable legal regulations. The customer shall indemnify us of existing statutory take-back obligations and at the same time related claims of third parties.



§ 10 Export control

Deliveries under this contract shall be subject to the proviso that no obstacles based on export control provisions or international export control provisions oppose the fulfilment of these. The customer is obliged to provide all documents and information for the export and shipment. If delays occur on the basis of export checks or approval procedures, the deadlines and delivery periods shall not apply. If approvals are not issued or the delivery is not approvable, the contract shall be regarded as not concluded with respect to the affected parts.

The customer is obliged to procure the necessary import authorisation.

If we do not have the authorisation within a reasonable period or the customer does not procure the documents necessary for the issuing of the authorisation despite the expiry of a reasonable grace period we shall be entitled to withdraw from the contract. We shall be entitled to proportional remuneration for services we have already provided up to this point. In the case of withdrawal the customer shall have no claims for damages or other rights.

§ 11 Applicable law / Place of jurisdiction / Written form

The law of the Federal Republic of Germany shall apply. Application of the United Nations Convention on Contracts for the International Sale of Goods (CISG) is excluded.

For all disputes arising from the business relationship, the place of jurisdiction shall be Landsberg am Lech.

Deviations from these Terms and Conditions shall require the written form. The same applies to the revocation of this written form requirement.

§ 12 Severability clause

Should a clause of these Terms and Conditions be or become ineffective, it shall be replaced with a regulation that comes closest to the regulation the parties intended.

