

General Terms of Delivery

Company Loptek Glasfasertechnik GmbH & Co. KG

State: 01.01.2006

I. GENERAL TERMS

1. In commercial transactions, our quotations are exclusively made on the basis of these terms & conditions of sale & delivery which always become part of the quotation and of the contract.
2. Our terms & conditions of sale & delivery are valid for all current and future business relations with customer. Any opposite or different general terms & conditions of customer are rejected unless we expressly agreed in writing before or at the conclusion of contract that they are valid.
3. Any opposite acknowledgment of customer with differing conditions are already now expressly rejected.

II. QUOTATION/ ACCEPTANCE/CONTRACT CONCLUSION

1. Our quotations are without engagement and subject to prior sale. To a reasonable extent, we reserve the right to technical modifications as well as to any other modifications regarding design, colour and/or weight.
2. Received orders are only accepted by the dispatch of the order acknowledgment. The contract is concluded provided that delivery of our supplier occurs correctly and punctually. Our sales representatives are not entitled to conclude a contract.
3. Modifications and amendments to the concluded agreement require our written consent to become valid. A waiver of the written form also requires our written consent.

III. TECHNICAL DATA

All technical data in our quotations and order acknowledgments are manufacturer's specifications. They are not valid as a special contractual agreement. Claims for damages resulting from incorrect technical data or incorrect reproduction of technical data are excluded, except in case of intent or gross negligence.

IV. SHIPMENT, BEARING THE RISK, PARTIAL DELIVERY

1. In case of no separate agreement, we can determine packaging, shipping route and transportation.
2. Shipment is made at customer's risk and expense. With the delivery of the goods to the first carrier, risk passes to customer, even in case of an agreement regarding a carriage paid delivery. In case of collection by customer, risk passes to customer 2 days after receipt of the notification that the goods are ready for shipment.
3. Partial deliveries are permissible.
4. Surplus or short deliveries are permissible to an extent customary in the trade.

V. DELIVERY TIME, DELIVERY DATE, DIFFICULTIES

1. We endeavour to meet the delivery dates.
2. In case we exceed the delivery time, customer shall grant us an adequate extension of at least 3 weeks.
3. Delivery time begins with our receipt of all data necessary for the execution of order, however at the earliest upon customer's receipt of the acknowledgment of order.
4. Delivery time is interrupted as soon as customer does not fulfil his liabilities to us.
5. If we are not responsible that the goods are not sent or collected by buyer in time, the delivery time and delivery date are also considered as observed with the notification that the goods are ready for shipment.
6. In case we cannot deliver in time because of circumstances or incidents beyond our control which result in the impossibility or in unreasonable difficulties to deliver in time, as traffic or working disturbances, raw material or energy shortage as well as legitimate strike or lockout, the delivery time is extended adequately. This is also the case should our previous supplier be affected by the before mentioned circumstances no matter in case of a labour dispute whether it is legitimate or not.

7. If the contract cannot be fulfilled within the extension or can only be fulfilled within the extension surmounting unreasonable difficulties, we can withdraw from the contract. In this case, any claim for damages by customer is excluded, except in cases of intent or gross negligence by us. If the contract cannot be fulfilled completely or partially due to one of the in item 6 above mentioned reasons, we are exempt from our obligation to perform.
8. In case of default of delivery, if customer sets us an adequate extension connected with a notice of intended rejection, customer is entitled to withdraw from the contract after the expiry of the extension. Customer is only entitled to damages because of non-performance if the delay results from intent or gross negligence.

VI. WARRANTY / DAMAGES

1. Immediately after receipt, customer is bound to examine whether the goods are damaged, defect and complete. In case of apparent damages, defects or shortages, an itemized notification shall be sent immediately in writing, at the latest within 14 days after the delivery. In this case, the punctual dispatch of the notification is crucial. Should customer let expire this period of time, the delivered goods are considered as per contract. Later objections are excluded, except in case of intent or gross negligence by us or in case that the law prescribes imperatively a longer period of time regarding claims for defects of quality. The warranty period is one year after delivery of the goods. Prerequisite for asserting defects of quality is a duly maintenance according to the operating instructions as well as the proper use of the products using the prescribed consumables as well as wear and tear parts.
2. Differing from clause VI. 1., in case of damages in transit, customer shall send an itemized complaint within 4 days via registered letter with advice of receipt to the forwarding agent, provided that the complaint had not already been made and notified on the shipping documents at the delivery of the goods. Furthermore, the damages in transit shall also be immediately sent to us enclosing the damage record of the transport undertaking.
3. In case of a legitimate complaint by customer, we can determine to make either a retouch or replacement delivery. In case of default, customer can claim at his option that the price will be reduced (reduction) or the contract cancelled (withdrawal). In case of a slight lack of conformity of the goods, especially in case of only slight defects, customer is not entitled to withdraw from the contract.
4. Any further claims, especially claims for consequential damages, are excluded, except in case of intent or gross negligence by us. This is not the case as far as liability is imperatively prescribed by law as e. g. by the law of product liability or in case of missing of warranted qualities as well as of injury to customer's life, body, health. In these cases however, our liability is limited in case of an only negligent breach of duty to the contractually typical, foreseeable damage. As far as customer is entitled to damages according to these regulations, they become statute-barred within a period of 12 months. The limitation period starts from the knowledge of the facts. In any case, customer is bound to inform us immediately in writing about decisive facts.

VII. PRICES AND PAYMENT

1. Prices are ex works excluding packaging plus applicable statutory VAT.
2. Payment are to be made free paying office of the Supplier.
3. The customer may only set off with such claims which are unchallenged or recognized by declaratory judgement

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4. Bills of exchange as well as cheques and orders to pay are only accepted as purpose to fulfil the payment and not considered as fulfillment of the payment. Collection and discount charges are at customer's expense. They are immediately due.
5. Should customer get into arrears with one payment, all outstanding claims will immediately fall due, even if they are not due yet. Moreover, customer has to pay in advance for all orders not yet executed.
6. This is also valid should customer's business situation worsen considerably after the conclusion of contract.
7. In case of default, we charge interests amounting to 8 per cent points above the respective base interest of the European central bank. We reserve the right to assert further claims for consequential damages. Customer has the right to prove that the damage is lower than the lump sum.
8. In case of suspension of payment, settlement or bankruptcy, deduction of any quantity or cash discount, etc. is no longer granted.

VIII. OWNERSHIP

1. Until receipt of all payments due for the delivered goods resulting from the business relation with customer, we retain title to and possession of the delivered goods.
2. Customer is entitled to resell the goods respecting the duty course of business as long as he meets his contractual obligations. Customer has not the right to pledge our goods or make a security agreement. Customer shall immediately inform us in case of any intervention by third party regarding our property.
3. Besides, shall customer not meet his obligations to us, we are entitled to demand the handing over of the goods under reserve. In so far, customer has no right to property. To this extend, the demand of handing over the goods under reserve is not a withdrawal from the contract. After the taking back, we are entitled to exploitation. After deduction of reasonable exploitation costs, the exploitation proceeds are deducted from customer's liabilities.
4. Already now, customer assigns to us all liabilities of his customers resulting from the resale of the goods including all collateral rights.
5. Until revocation, customer is entitled to call in all liabilities he has assigned to supplier.
6. Upon request, customer is bound to inform us about the amount of the assigned liabilities as well as the names and addresses of the correspondent customers.
7. Any working or transforming of the goods by customer is always performed for us. In case the goods are combined or mixed inseparably with other objects which are not our ownership, we acquire co-ownership to the new object proportionally according to the value of the purchase object compared with the other combined or mixed objects at the moment of the combination and/or mix.

IX. LIABILITY

Our liability is solely limited to the stipulations mentioned in the above clauses of this contract.

According to these clauses, customer's claims for damages resulting from a defect become statute-barred one year after the delivery of the goods. This is not the case if a gross fault in the sense of intent or gross negligence can be reproached to us as well as in case of physical and health injuries attributable to us or in case of lose of customer's life.

In case of negligent breach of duty, our liability is limited to the with the kind of goods connected, contractually typical, foreseeable immediate average damages. In case of a slight negligent breach of negligible contractual duties, our liability is excluded.

X. JURISDICTION – PLACE OF PERFORMANCE - GOVERNING LAW

1. Place of performance for delivery and payment is Berlin. Jurisdiction is Berlin. At Loptek's option, we are also entitled to institute proceedings where the place of business of the company of our customer is located.
2. The whole contractual relationship is governed by substantial German law. The United Nations Convention on Contracts for the International Sale of Goods (CISG) as well as similar rules on the basis of international agreements are excluded.

XI. FINAL TERMS

The validity of single contract terms does not affect the obligations resulting from the remaining terms. The unvalid terms shall be replaced by such regulations which correspond the most to the economic purpose of the contract considering appropriately the interests of both parties.

The whole contractual relationship is governed by German law.

