

General Terms and Conditions of Sale and Delivery

1 General Points/ Area of Application

1.1. The General Terms and Conditions of Sale and Delivery of GÜNTHER Heisskanaltechnik GmbH (hereinafter referred to as "GÜNTHER") apply exclusively. Any terms and conditions of GÜNTHER's contractual partner (hereinafter called "Customer") which contradict or differ from these Terms and Conditions of Sale and Delivery shall not be recognised unless GÜNTHER has given express consent in writing that divergent conditions may apply. These Terms and Conditions of Sale and Delivery shall also apply where GÜNTHER delivers to the Customer, without reservation, in the knowledge that that the Customer's conditions of sale and delivery contradict or differ from its own terms and conditions.

1.2 These Terms and Conditions of Sale and Delivery shall also apply to all future transactions with the Customer.

1.3 All agreements made between us and the Customer for the purpose of fulfilling this contract are to be laid down in writing in this contract.

1.4 These Terms and Conditions of Sale and Delivery shall only apply to entrepreneurs, legal persons governed by public law and public law special assets (Section 14 [BGB] (German Civil Code)).

2 Offer - Acceptance

2.1 All offers made by GÜNTHER are subject to change and non-binding, unless they have been expressly identified as binding or they include a specified term of acceptance. GÜNTHER reserves the right to cancel an item, suspend delivery or make price changes. The scope of GÜNTHER's delivery obligations shall be determined by the order confirmation or the offer. Verbal agreements or those made by telephone must be confirmed in writing to be valid.

2.2 Ordering the goods by the customer shall apply as a binding offer of contract and is only binding for us if we confirm it in writing within four weeks. The contract shall come into being at the latest when the ordered goods are dispatched or, in the case of part deliveries, when the initial delivery is dispatched.

2.3 The documents, drawings, weights and measurements, samples etc. are only approximations and shall not represent guaranteed characteristics. GÜNTHER shall be entitled to depart from the specifications contained in the offer and/or the confirmation of order provided that such departures are not of a fundamental or essential nature and do not impede the purpose of the contract.

2.4 The customer is responsible for the application and utilisation of the products they order because their application and utilisation are beyond GÜNTHER's control. The technical advice for use given by GÜNTHER applies only as non-binding information and does not exempt the customer from the obligation to carry out their own tests and inspections on the products delivered by GÜNTHER to assess their suitability for the Customer's purposes.

2.5 If GÜNTHER manufactures parts in accordance with the Customer's drawings, the drawings produced by GÜNTHER and approved by the Customer shall prevail. Departures from the approved drawings must be agreed separately and any additional costs incurred in this respect must be reimbursed.

3 Intellectual Property Rights

3.1 GÜNTHER shall retain title and copyright to all illustrations, drawings, calculations and other documents. This shall apply in particular with respect to any written documents marked "confidential". The Customer may only disclose them to third parties with the prior written consent of GÜNTHER.

3.2 All illustrations, drawings, calculations and other documents must be returned to GÜNTHER immediately upon first request if GÜNTHER's offer is not accepted or the contract is terminated for some other reason. This shall also apply with respect to the offer documentation itself.

3.3 Where deliveries are made in accordance with drawings or other information from the Customer and this infringes third party intellectual property rights, the Customer shall indemnify GÜNTHER from all claims within the contractual relationship.

4 Delivery/ Delivery Date/ Default

4.1 Delivery periods and delivery dates shall only be regarded as binding where they have been expressly guaranteed in writing in the offer. GÜNTHER shall not be bound by the delivery date or delivery period where the Customer fails to comply with their obligations (payment of instalments, production of the necessary documentation, etc.) within the agreed time limit. We reserve the right to claim non-performance.

4.2 Delivery periods shall commence no earlier than the day on which the contract is concluded in writing. Commencement presupposes clarification of all technical questions.

4.3 In the case of subsequent change requests by the Customer, GÜNTHER shall be released from the obligation to comply with the delivery date or delivery period.

4.4 The delivery period shall have been met if the subject matter of the delivery leaves GÜNTHER's works, or GÜNTHER gives notification of readiness for delivery, prior to expiry of the said delivery period.

4.5 The Customer may not bring claims for delays in delivery which do not result from intent or gross negligence on the part of GÜNTHER. This shall apply in particular with regard to delays in delivery resulting from force majeure. In this case, the agreed delivery date or delivery period shall be postponed for the duration of the circumstances preventing delivery.

4.6 Returns of flawless goods are only permitted with the prior express agreement of GÜNTHER. Parts from the current delivery schedule so returned must be in their original packing and in perfect, saleable condition. The return shipment shall be sent carriage paid and at the sender's risk and subject to a 15% restocking charge. Processing fees shall be charged according to the work required. This may, for instance, be re-coding, cleaning and repackaging.

4.7 If the Customer defaults on acceptance or breaches other duties to cooperate, GÜNTHER shall be entitled to claim compensation for the loss incurred as a result, including any additional expenditure. GÜNTHER shall also be entitled to set a reasonable time limit for acceptance by the Customer and where this expires without result, to cancel the contract and claim damages in lieu of performance.

5 Transfer of Risk/ Packaging

5.1 The risk of accidental loss or a deterioration of the goods supplied shall pass to the Customer by no later than with the handover of the goods to the shipping agent, the carrier, or through the despatch of the goods to the Customer (whereby the commencement of the loading process is decisive), even when in respect of part deliveries, which are expressly permitted, provided a complete delivery of the entire goods ordered on schedule is not possible on schedule for reasons for which GÜNTHER bears no responsibility.

5.2 Delivery shall be "ex works". GÜNTHER shall only be obliged to insure the goods at its own expense against insurable risks where the Customer expressly requests this.

5.3 Transport packaging and any other packaging under the Packaging Ordinance (VerpackV) with the exception of pallets will not be taken back. The Customer shall be obliged to arrange for disposal of the packaging at their own expense.

6 Prices and Payment

6.1 In the absence of a separate agreement, prices shall always be ex-works including loading at the works but excluding packaging which shall be charged separately.

6.2 The specified prices shall be net; statutory value added tax shall be added at the rate applicable on the date of issuing the invoice and separately identified.

6.3 In the absence of a separate agreement, accounts receivables arising from this contract shall be payable pro rata as follows:

Payment must be made within 30 days of the invoice date without deduction. Discount for prompt payment shall only apply where there is express written confirmation from GÜNTHER.

6.4 GÜNTHER shall be entitled to initially allocate payment made by the Customer to the oldest untitled debt even in the event of conflicting appropriation. Where costs or interest have already accrued, GÜNTHER shall be entitled to allocate payments against the costs first, then the interest and finally the main debt.

6.5 The Customer shall only be entitled to a set-off if and insofar as their counter-claims have been recognised by a declaratory judgement, are undisputed or have been accepted by GÜNTHER in writing. The Customer's right of retention shall be limited to claims arising from the contractual relationship.

6.6 GÜNTHER is entitled to demand default interest of 9 percentage points above the respective base interest rate in accordance with Section 247 of the German Civil Code.

7 Reservation of Title

7.1 GÜNTHER reserves title to all parts supplied until receipt of all payments under the delivery contract, including future payments. In respect of conduct contrary to the contract, in particular with regard to default of payment, GÜNTHER shall be entitled to repossess the purchased item.

7.2 The Customer must handle the delivered parts with due care and, while they are subject to the reservation of title, shall insure them at their own expense against all forms of loss at their replacement value.

7.3 The cost of maintenance and inspection work while the goods are subject to the reservation of title must also be borne by the customer, even if such work is carried out by GÜNTHER.

7.4 In the event of seizure or other intervention by a third party, the Customer must inform GÜNTHER immediately in

writing so that the latter can bring an action to oppose execution of a judgement. Insofar as the third party is not in a position to reimburse the judicial and extra-judicial costs of such an action, the Customer shall be liable for them.

7.5 The Customer shall be entitled to resell the purchased items in the ordinary course of business; however, they hereby assign to GÜNTHER all debts, up to the amount of GÜNTHER's final invoice (including value added tax), accruing to them as a result of the resale from their customer or a third party, irrespective of whether or not the item had been processed prior to resale. The Customer shall retain the right to recover such debts even after delivery. GÜNTHER's own authorisation to recover the debt shall remain unaffected. However, GÜNTHER undertakes not to recover the debt provided the Customer settles their payment obligations out of the proceeds collected, does not default on payment and, in particular, provided that no application is made to institute insolvency proceedings and that there has been no suspension of payments.

7.6 In the event that the goods supplied have been irrevocably mixed or combined with other items which are not the property of GÜNTHER, GÜNTHER shall acquire joint ownership of the new or connected item in the proportion of the value of the goods supplied (final invoice amount including value added tax) to the other items at the time of the mixing or combining. The Customer shall hold the resulting rights of sole or joint ownership on GÜNTHER's behalf.

7.7 Payment of part of the cost of tooling shall not entitle the Customer to acquire any rights to such tooling; they shall remain the sole property of GÜNTHER.

8 Liability for Material Defects/ General Liability

8.1 GÜNTHER shall not be liable for defects arising due to improper handling, wear and tear, storage or other actions on the part of the Customer or third parties. Liability for minor material defects, wear and tear arising from the treatment of filled thermoplastics as well as from chemical effects of the thermoplastics being treated, is excluded.

8.2 GÜNTHER shall not therefore be liable for incorrect operation during installation, conversion, disassembly or for unauthorized opening of manifolds, controllers or nozzles, in particular such with thick-film heaters. GÜNTHER shall also not be liable for defects arising as a result of improper handling, wear, storage or other actions on the part of the Customer or third parties. Under the legal provisions, GÜNTHER shall be liable for compensation, if the breach of duty can be attributed to GÜNTHER and based on intent or gross negligence. As far as the breach of duty, which can be attributed to GÜNTHER, is due to slight negligence and the culpable breach regards an essential contractual obligation, the liability for damages is limited to the foreseeable damage that typically occurs in comparable cases. This shall also not affect our liability under the provisions of the Product Liability Act or our liability for death, personal injury and damage to health. In all other respects any liability on our part is excluded.

8.3 Statutory claims arising from liability for material defects shall be subject to a limitation period of one year from the date on which the goods were handed over. This shall not amount to a guarantee of durability.

8.4 The Customer undertakes to comply with their duty to examine the goods pursuant to Section 377 HGB (German Commercial Code) even if the goods are resold.

8.5 In the context of supplementary performance GÜNTHER shall have the right to choose between subsequent repair and new delivery. This shall not affect more extensive statutory rights.

8.6 The costs involved in subsequent performance shall not be borne by GÜNTHER insofar as such costs are increased due to the fact that, following delivery, the goods are taken to another location away from the Customer's commercial office or installed at the end customer's. This shall not apply if such removal is consistent when using the item in accordance with contractual regulations.

The costs involved in subsequent performance are limited to the extent that GÜNTHER was originally obligated to pay for them in accordance with the contract. Further liability of GÜNTHER is excluded, also in the form of compensatory damages.

8.7 The Customer's right of recourse against GÜNTHER due to claims resulting from liability for material defects which are brought against the Customer by their own customers, is excluded if the Customer has not complied with their duty to examine the goods and give notice of defects or if the goods have been changed by processing.

8.8 GÜNTHER's liability for damages under statutory provisions shall be unlimited if GÜNTHER is responsible for a breach of duty due to intent or gross negligence. As far as the breach of duty, which can be attributed to GÜNTHER, is the result of simple negligence and the culpable breach regards an essential contractual obligation, the liability for damages is limited to the foreseeable loss that typically occurs in comparable cases. Otherwise, liability is excluded.

8.9 Liability under the provisions of the Product Liability Act shall remain unaffected as shall liability for death, personal injury and damage to health.

9 Ban on Assignment

All claims of the Customer against GÜNTHER arising from the contractual relationship may not be assign.

10 Product Liability

10.1 The Customer may only use the goods for the intended purpose and must ensure that these goods are only resold to persons who are familiar with the dangers and risks of the product.

10.2 If the Customer is using the product as a base material or a sub-product of his own products, they shall also be obliged to comply with their duty to provide a warning with respect to the products supplied by GÜNTHER when placing the end product on the market. With respect to their internal relationship, the Customer shall indemnify GÜNTHER, at the first request, against claims arising from a breach of these obligations.

11 Other Matters/ Concluding Provisions

11.1 The place of performance shall be Frankenberg (Eder).

11.2 The court with jurisdiction for all disputes arising under the contract shall be Frankenberg (Eder). GÜNTHER shall, however, be entitled to bring an action against the Customer in the court with general jurisdiction over the Customer or the court with jurisdiction in the place where the Customer has an office.

11.3 German law shall apply exclusively with the exception of the United Nations Convention on the International Sale of Goods (CISG).

11.4 If as individual provisions of the contract are invalid, the validity of the remaining provisions shall not be affected thereby. The parties shall endeavour to replace the invalid provision with a valid one which corresponds most closely to the economic purpose of the contract.