

G E V A G GmbH

General Supply and Payment Terms and Conditions (hereinafter: "Terms and Conditions") (Stand 01 / 2021)

Scope of validity

1. Our deliveries and services are made solely on the basis of the following Terms and Conditions. After initial agreement, the terms of sale underlie all, including future, contracts with the Partner.

Terms and conditions of the partner do not apply except if explicitly recognized by us. Such conditions shall not apply even if they are contained in an order or commission following our offer and we do not expressly object to this or execute the order without reservation.

General Terms

2. The contracting parties will confirm verbal agreements in writing immediately in detail.
3. Orders become binding only with our order confirmation.
4. The information and illustrations contained in brochures and catalogues are industry-standard approximations, unless they have been expressly designated by us as binding.
5. We are entitled to refuse the delivery or service if it becomes apparent after the conclusion of the contract that our payment claim is jeopardized by a lack of efficiency of the partner. This is especially the case if the creditworthiness of the Partner is rated by Euler Hermes as "Elevated Risk" (rating level 7) or worse or if there is another reason in the sense of § 321 (1) BGB. The provisions in paragraphs 25 and 40 remain unaffected.
6. In addition, we are entitled to terminate the contract without notice if there is an important reason for doing so. An important reason exists in particular if a case of clause 5 occurs and the Partner, despite being requested, does not pay or provide security against delivery within a reasonable period. Statutory rights of termination and withdrawal and the rights under paragraphs 25 and 40 remain unaffected.
7. These Terms and Conditions are available in German and English. In case of contradictions, the German version shall prevail. Should individual parts of these conditions of sale be or become ineffective, this will not affect the validity of the remaining provisions.

Long-term and drawdown agreements, price adjustment

8. Permanent contracts and contracts with a term of more than 12 months ("long-term contracts") can be terminated at the end of a month with a notice period of 6 months (for

contracts with a term of more than 12 months after the minimum contract period has expired).

9. In the case of long-term contracts, where there is a material change in labour, material or energy costs, each party to the contract shall be entitled to demand that the price be adjusted appropriately, taking these factors into account.
10. If a binding order quantity has not been agreed, we base our quantity planning on the non-binding order quantity (target quantity) expected by the partner for a certain period of time.
11. For delivery contracts on call, unless otherwise agreed, binding quantities must be communicated to us by drawdown request at least 5 months before the delivery date.

Additional costs, which are caused by a late drawdown or subsequent changes of the drawdown request with regard to time or quantity by our Partner, are at his expense, unless he is not responsible for the delay or subsequent change; our quantity planning is decisive here.

Confidentiality

12. The Partner may use all documents (including samples, models and data) and knowledge that he obtains from the business relationship only for the purposes pursued together and shall keep them secret with the same care as the corresponding own documents and knowledge of third parties if we refer to them as confidential or have a clear interest in their secrecy.

This obligation starts from the first receipt of the documents or knowledge and ends 36 months after the end of the business relationship.

13. The obligation does not apply to documents and knowledge which are generally known in the public domain or which were already known to the contracting party upon receipt, without being obliged to maintain secrecy, which are subsequently transmitted by a third party entitled to transfer, or those of the receiving contracting party without the use of secret documents or knowledge of the other contractor.

Drawings and Specifications

14. If we provide the partner with drawings or technical documentation about the goods to be delivered or their manufacture, these remain our property. In principle, the drawings confirmed and / or released by both parties apply, including confirmed changes.

Samples and Manufacturing Means

15. The costs for samples and associated documentation, as well as production means (tools, moulds, templates, etc.) shall, unless otherwise agreed, be charged separately from the goods to be delivered. This also applies to production equipment that must be replaced due to wear.
16. The costs for the maintenance and proper storage as well as the risk of damage or destruction of the means of production are borne by us.

17. If the partner discontinues or terminates the cooperation during the production time of the samples or production equipment, all manufacturing costs incurred up to that date shall be borne by him.
18. The means of production remain in our possession, at least until the execution of the delivery contract, even if the Partner has paid for them. Thereafter, the Partner is entitled to reclaim the means of production if the Partner has fully fulfilled its contractual obligations. Legal rights of retention remain unaffected.
19. We store the tools free of charge three years after the last delivery to our Partner. Afterwards, we request our Partner in writing to comment on further use within 6 weeks. Our obligation to safekeeping ends if no statement is made within these 6 weeks or no new order is placed.
20. The Partner is obliged to ensure that its protective rights of third parties are not violated and releases us from any claims of third parties.

Prices

21. Our prices are in Euro excluding VAT, packaging, freight, postage and insurance. Other agreements must be made in writing. Unless otherwise agreed, the stainless steel and brass surcharges valid on the day of delivery apply. In the event of an unpredictable levy or unpredictable increase in import duties, taxes, import duties, etc., we shall be entitled to adjust the previously valid purchase price in line with the increased duties. The same applies to unpredictable currency fluctuations. The adjustment is made by written notification stating the reasons.

Payment Terms

22. Unless otherwise agreed, all invoices are due for payment within 30 days of delivery or performance and receipt of the invoice.
23. If we have undisputedly delivered partly faulty goods, our Partner is nevertheless obliged to pay for the faultless portion unless the part delivery is of no interest to him. Otherwise, the Partner can only offset claims for compensation for defects or completion costs if they are legally established or undisputed.
24. If the payment deadline is exceeded, we shall be entitled to charge default interest in the amount that the bank charges us for overdraft facilities, but at least at 9 percentage points above the respective base interest rate of the European Central Bank, as well as the statutory lump sum of 40 euros.
25. In the event of default of payment, we may cease to fulfil our obligations upon receipt of payment, after written notification to the Partner.
26. Bills of exchange and checks are only accepted by agreement and only on account of performance and on the condition that they are discounted. Discount charges will be levied from the due date of the invoice amount. A guarantee for the timely presentation of the bill of exchange and check and for protesting the bill of exchange is excluded.

Delivery

27. We expressly point out that all deliveries are made on the basis of the last samplings carried out. This applies in particular to the revision levels for drawings, surface standards and, if necessary, inspection plans listed in the sampling. Any changes must be notified to us in good time before placing the order and require our approval. The resulting additional costs shall be borne by the customer.
28. Unless otherwise agreed, we deliver "ex works". Decisive for the observance of the delivery date or the delivery period is the notification of the readiness for dispatch or collection by us. All items are delivered in standard packaging (up to 12kg). Individual packaging units can be agreed but may need to be charged separately.
29. Defined delivery dates are not binding unless they have been expressly confirmed by us in writing or bindingly agreed as "binding delivery date". The delivery period begins with the dispatch of our order confirmation and will be extended appropriately if the conditions of section 59 or if the Partner has not fulfilled his own obligations or commitments to cooperate.
30. Partial deliveries are permitted to a reasonable extent. They will be charged separately.
31. Production-related excess or short deliveries are permitted within a tolerance of 10 percent of the total order quantity. As a result, the total price changes according to the scope of such excess or short deliveries.

Shipping and Transfer of Risks

32. Goods notified ready for dispatch must be accepted by the Partner without delay. Otherwise, we are entitled to ship them at our own choice or to store them at the Partner's expense and risk.
33. Unless otherwise agreed, we will choose the means of transport and the route of transport.
34. The risk is transferred to the Partner, even if we have accepted to take care of the delivery, upon transfer to the railway, the forwarding agent or the carrier or with the beginning of the storage.

Delayed Delivery

35. If we can foresee that the goods cannot be delivered within the delivery period, we will inform the Partner immediately and in writing, inform them of the reasons for this and, if possible, indicate the expected delivery date.

GEVAG's deliveries are subject to complete self-delivery. If the delivery and performance time is extended as a result of a delay in self-delivery, the customer cannot derive any damages from this unless the delay or non-delivery is the fault of GEVAG.

This shall also apply if a fixed delivery date has been agreed for which the customer is clearly interested in rapid performance. However, GEVAG may only invoke the aforementioned circumstances if the customer is notified without delay.

36. Even if a reminder is sufficient or not required under the law, we will not be in default until the expiry of a reasonable grace period set in writing.

37. The Partner is only entitled to withdraw from the contract if we are responsible for the non-compliance with the delivery date and he has set us an appropriate grace period without success.

Retention of Title

38. We reserve title to the delivered goods until all claims arising from the business relationship with the Partner have been met.

39. The Partner is entitled to sell the goods in the ordinary course of business as long as they fulfill their obligations arising from the business relationship with us in good time. However, they may neither pledge nor surrender the reserved goods for security. He is obliged to secure our rights in the case of any resale of the reserved goods under credit.

40. In the event of breach of duty by the partner, in particular default in payment, we shall be entitled to withdraw from the individual contract and to take back the goods after the unsuccessful expiry of a reasonable deadline set for the Partner; the legal provisions on the dispensability of setting a deadline remain unaffected. The Partner is obliged to return the goods.

41. All claims and rights arising from the sale or any letting of goods to which we are entitled to property rights are assigned to us by the Partner as security. We hereby accept such assignment.

42. Any processing or integration of the reserved goods is always undertaken by the Partner for us. If the reserved goods are processed or inseparably mixed with other objects not belonging to us, we shall acquire co-ownership of the new object in proportion to the invoice value of the reserved goods to the other processed or mixed objects at the time of processing or mixing.

If our goods are combined with other movable objects into a unitary item or are inseparably mixed and if the other item is to be regarded as the main item, then the Partner assigns proportional co-ownership to us as far as the main item belongs to him. The Partner holds the property or co-ownership for us. The same applies to the thing resulting from processing or combination or mixing as for the goods under reserved title.

43. The Partner has to inform us immediately about the enforcement measures of third parties in the reserved goods, in the claims assigned to us or in other collateral, handing over the documents necessary for an intervention. This also applies to impairments of any kind.

44. If the value of the existing securities exceeds the secured claims by more than 20 percent, we shall be obliged to release securities of our choice at the request of the Partner.

Quality Defects

45. The quality of the goods is governed exclusively by the agreed technical delivery instructions and other requirements. Unless otherwise agreed, the GEVAG guideline on technical delivery quality of fasteners is based on the guidelines of the German Screw Association e.V. (DSV), with the exception of the acceptance test according to the standard DIN EN ISO 3269 (AQL test).

Guarantees in the legal sense are not assumed by us.

If we have to deliver according to drawings, specifications, samples, etc. of our Partner, the Partner shall assume the risk of suitability for the intended use / functionality.

Decisive for the contractual condition of the goods is the time of transfer of risk according to section 34t.

46. We are not liable either for material defects caused by inappropriate or improper use, faulty installation or commissioning by the Partner or third parties, nor normal wear and tear, faulty or negligent treatment, nor the consequences of changes or repairs that are improper or made Partner or a third party without our consent. The same applies to defects that reduce the value or suitability of the goods even only insignificantly.

47. Claims for defects lapse after 12 months. This does not apply if the law prescribes longer periods, in particular for defects in a building and in a product that was used for a building in accordance with its usual manner of use and caused its defectiveness. Also for damage resulting from injury to life, limb or health, in case of intent or gross negligence or in the event of a breach of essential contractual obligations (these are obligations whose fulfilment enables the proper execution of the contract in the first place and on whose compliance the Partner regularly relies and may rely) of our legal representatives or executives and for any obligation to compensate for the expenses required for the purpose of supplementary performance in accordance with § 439 para. 3 BGB sentence 1 shall not apply.

48. Warranty rights of the Partner presuppose that they have duly fulfilled their duties of inspection and complaint pursuant to § 377 HGB. The Partner must notify defects in writing immediately after receipt of the goods at the place of destination, concealed defects immediately upon discovery of the defect in writing. If a first sample inspection has been agreed, the complaint of defects is excluded, which the Partner could have determined after careful initial sample inspection. When placing the delivery order, we consider the sampling as approved.

49. We have opportunity to ascertain any alleged defect. Complained goods must be returned to us immediately upon request; we assume the transport costs if the complaint is justified. If the Partner does not comply with these obligations or makes changes to the goods that have already been complained about without our consent, he loses any claims for material defects.

50. In the event of a justified, timely notice of defects, we will, at our discretion, repair the goods complained of or deliver faultless replacement.

51. If we fail to meet these obligations or fail to do so within a reasonable period of time, the Partner may set a deadline in writing for us to fulfil our obligations. After unsuccessful expiration of the period, the Partner may demand a reduction of the price, withdraw from the individual purchase contract or have the necessary rectification itself or by a third party at our expense and risk. A reimbursement of costs is excluded if the expenses increase because the goods have been moved to another location after our delivery, unless this corresponds to the intended use of the goods.
52. Legal recourse claims of the partner against us exist only to the extent that the partner has not made any agreements with his customer that go beyond the legal claims for defects. For the scope of the recourse claims, the last sentence of section 51 applies accordingly.
53. Requalifications of our products are carried out on request in accordance with VDA guidelines for customers in the automotive supply sector. The first requalification is usually carried out within three years of the first sample test report and is cost-neutral for the customer. The standard scope includes: cover sheet, measurement results, factory certificate and, if necessary, surface verification. Further subsequent requalification will be charged. The costs incurred depend on the nature and extent of the customer's sampling requirements.

Other Claims, Liability

54. Unless otherwise stated below, other and further claims of the Partner against us are excluded. This applies in particular to claims for damages for breach of duties arising from the debt relationship and tort. We are not liable for damages that did not occur on the delivered goods themselves. Above all, we are not liable for lost profits or other financial losses of the Partner.
55. The aforementioned limitations of liability shall not apply in the case of intent, gross negligence on the part of our legal representatives or executives, or in the event of a breach of material contractual obligations, as defined in section 47. In the event of a breach of essential contractual obligations, we are liable – except in cases of intent or gross negligence on the part of our legal representatives or executives – only for contractually typical, reasonably foreseeable damage.
56. Furthermore, the limitation of liability does not apply in cases where, according to the Product Liability Act, there is a liability for the personal injury or property damage to privately used objects deriving from errors in the delivered goods.

The limitation of liability does not apply either in the event of injury to life, limb or health and in the absence of warranted characteristics if and to the extent that the purpose of the guarantee was to protect the Partner against damage that did not occur to the delivered goods themselves.

Finally, the limitation of liability does not apply either if we have concluded a purchase agreement with the Partner and are obliged to reimburse the expenses required for the purpose of supplementary performance in accordance with § 439 (3) BGB.

57. Insofar as our liability is excluded or limited, this also applies to the personal liability of our employees, employees, employees, legal representatives and vicarious agents.

58.The statutory provisions on the burden of proof remain unaffected.

Force Majeure

59.Force majeure, labour disputes, riots, official measures, the absence of supplies from our suppliers and other unforeseeable, unavoidable and serious events release the contractual partners from the obligation to perform for the duration of the disruption and to the extent of their effect. This also applies if these events occur at a time when the affected contracting party is in default, unless it has caused the default intentionally or through gross negligence. The contractual partners are obliged to provide the necessary information as soon as reasonably practicable and to adapt their obligations to the changed circumstances in good faith.

Place of Performance, Jurisdiction and Applicable Law

60.Unless the order confirmation states otherwise, our place of business is the place of performance.

61.For all disputes arising out of and in connection with a contract, including in the context of a bill of exchange and check, our place of business is the place of jurisdiction. We are also entitled to sue at the partner's location.

62.Only the law of the Federal Republic of Germany applies to the contractual relationship. The application of the United Nations Convention of 11 April 1980 on Contracts for the Sale of Goods (CISG - "Vienna Sales Convention") is excluded.