

# General Terms and Conditions of OTTOSTUMM SA

Valid until 8th April 2020

## 1. Validity

The terms of delivery are valid for all concluded sales transactions and company contracts and all ensuing supplies and subsequent deliveries. Amendments to such general terms of delivery and sale are only legally admissible, if they are confirmed by the Company in writing. Customers' conditions of purchase have no validity, even if the Company has not expressly overruled them.

## 2. Pricing and invoicing

Quoted and invoiced prices do not include statutory VAT. All quantities, dimensions, weights and additional information contained in an offer are quoted with the greatest care, however no responsibility is accepted for their accuracy. For invoicing, the sizes and quantities of the actual delivery or performance apply, on the basis of the acknowledged delivery notes. The agreed and invoiced prices are only valid, providing that the customer observes the agreed payment conditions. In the event that payments are not punctually made, the Company is entitled to make additional charges.

## 3. Payment and Payment terms

Payments and payment terms are always stipulated in the order confirmation. In case no other agreements apply, the invoiced prices are payable net. The customer can claim a discount only insofar as it is clearly stated on the order or the invoice. Complaints for deficiencies or belated deliveries do not entitle the customer to modifications of the due date of settlement or an extension of the credit period. Discounts can only be applicable when invoices are settled within the agreed deadline for early payment and no older invoices remain unpaid. All customer payments will be used to extinguish older debts. In case of delayed payments the customer can be charged monthly interest on arrears at bank rates. In case of delayed payments the customer is also bound to reimburse extra-judicial reminder fees. In case of delayed payment of even a part of a total outstanding invoice, the Company is entitled to immediately demand payment for the balance.

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## 4. Reservation of title

Goods delivered remain property of the supplier until the payment has been made in full. In case the goods are combined or processed with other articles, the purchaser forthwith transfers his full or partial proprietary rights pertaining to the processed material, or to the new item, over to the supplier and is to store such goods using due commercial care. Obligations against third parties arising from the disposal of ownership are forthwith transferred to the supplier. At the latter's request, the buyer is legally bound to declare to the third party buyer the transfer of proprietary rights regarding payment to the supplier. In case of the institution of bankruptcy proceedings concerning the customer's estate or in case of payment delayed 60 days after the due date, the supplier is entitled to remove existing goods from the customer's possession, thus exercising his proprietary rights, and to avail himself, by an analogous procedure, of the regulations concerning the return of goods. Should the supplier, by reason of the aforesaid reservation of title, repossess the delivered goods, the purchaser will be liable for any shortfall arising from the resale of these goods, as well as bearing the return and forwarding costs.

## 5. Prohibition of transfer

The purchaser is not entitled to transfer obligations onto the supplier, regardless of the legal grounds. This applies also to future obligations.

## 6. Place of performance and place of jurisdiction

Notwithstanding the arranged point of delivery, the agreed place of performance for the mutual obligations arising from this contract will be "Chiasso" in Switzerland. Any disputes arising from this contract are to be settled by the factually competent court in Chiasso, thus excluding all other places of jurisdiction.

## 7. Delivery times

Delivery times indicated by the Company will be adhered to according to feasibility and possibility. Should this not be possible, the purchaser is entitled to rescind the contract after agreeing to a reasonable extension. The purchaser may not reject partial deliveries and waives the right to enforce claims for damages resulting from delayed deliveries.

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## 8. Blanket orders

In case of business transactions with continuous deliveries based on bulk orders, the purchaser has a duty to make call offs and plan the relevant assignment of the monthly quantities. Should such call offs or assignments not be punctually made, then the supplier, having twice made requests for call offs or assignments, is entitled to assign quantities and carry out deliveries of his own accord at least every four weeks, or to rescind the remaining part of the transaction or to demand compensation for non-performance.

## 9. Deliveries in excess or in default

Deliveries varying in excess or in default are permissible up to 5%.

## 10. Returns

- a) Returned goods will not be accepted without prior written authorization from Ottostumm.
- b) The return of the goods results in a charge to the customer equal to 15 % (fifteen percent) of the original purchase price of the goods, for inspection and handling costs, and in any case not less than € 200 (two hundred), in addition to transport costs and any customs clearance.

## 11. Acts of God

Events amounting to acts of God authorize the supplier to postpone delivery for the duration of the hindrance and for a reasonable amount of time, or to rescind the contract regarding the still unfulfilled part. Circumstances amounting to acts of God are to be intended as significantly impeding or rendering impossible the delivery and, moreover, regardless whether they befall the actual supplier or a sub-contractor. The purchaser can demand a statement from the supplier, as to whether the contract is rescinded or whether delivery shall take place within a reasonable time. In absence of either a statement to this effect or a delivery in reasonable time, the purchaser can rescind the contract.

## 12. Dispatch and transfer of risk

Liability for risks is transferred to the purchaser when the goods are handed over to the carrier or forwarder and at the latest, however, when they leave the Company. Terms such as FOB, C+F and CIF require particular agreements.

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### 13. Complaints regarding faults

Transport damages are to be communicated to the carrier and the supplying Company without delay. Complaints are to be made by the purchaser in writing without delay, at the latest 14 days after goods have arrived at the place of destination. In case of faults which cannot be detected within this period, despite even the most careful inspection, complaints must be raised upon detection without delay, immediately ceasing any possible treatment, and must be supported with sample pieces. The supplier takes back faulty goods, insofar that the legitimacy of the claims has been acknowledged, and replaces them with flawless goods. Instead of this, the purchaser can also be refunded for their diminished quality.

### 14. Claims for compensation

Regardless of the legal grounds, the purchaser is not entitled to claims for compensation against the supplier, unless they are based on intention or gross negligence. The claim is limited to compensation for damage which is foreseeable at the moment of completion of the contract. Other claims differing from those mentioned in these circumstances are excluded.