

# General Terms and Conditions for Purchase and Payments

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## 1. Standard Conditions

The legal relationships between us and the supplier are based on these conditions and any other potential agreements. Any changes or supplements must be made in writing. Also, other general terms and conditions of business shall not apply even if they were not expressly opposed in each case.

## 2. Ordering

Supply contracts (order and acceptance) and delivery requests as well as changes and additions to them must be made in writing. Delivery requests can also be made via remote data transmission. If the supplier does not accept the order within three business days after receiving it, we are entitled to cancel the order. Delivery requests then become binding if the supplier does not contradict the order no later than within three business days of receiving it. Within the scope of feasibility for the supplier, SumiRiko AVS is entitled to request design and layout changes to the delivery item. If such a request is made, the results have to be regulated reasonably, particularly with regard to extra or reduced costs as well as deadlines.

## 3. Payment

The separately agreed terms and conditions apply to payments. In case deliveries are made before the delivery due date, the payment date is still based on the agreed delivery due date. Payments must be made by bank transfer or check. In case of an incorrect or defective delivery, we are entitled to withhold a percentage of the payment until the order has been properly filled.

Without prior written approval from us, which may not be denied unfairly, the supplier is not entitled to assign his claims against us or to collect accounts through third parties. In case of extended retention of title approval is considered as issued.

## 4. Letter of Complaint

As soon as deficiencies are determined in accordance to the conditions of a proper business sequence, we will send delivery complaints in writing to the supplier immediately. In this regard, the supplier shall waive the objection of late notices of defects.

## 5. Non-Disclosure

The contractual parties are obligated to treat all non-disclosed commercial and technical details that are made known throughout the course of the business relationship as trade secrets. Drawings, models, designs, prototypes and similar items may not be handed over nor otherwise made accessible to unauthorised third parties. Duplication of such items is only permitted within the framework of the operating requirements and the copyright provisions. Sub-contractors are also subject to the same terms and conditions. The contractual parties may only advertise their business connections with prior written approval.

## 6. Delivery Due Dates and Time Limits

The Supplier is obligated to comply with fixed dates. Agreed terms and time limits are considered binding at all times. If an explicit reference to delivery is made in prior by way of Purchase Order (PO) the delivery is necessarily required to be carried out at the fixed date determined within SumiRiko's PO. If delivery "ex works" is not part of the agreement, the supplier must deliver the goods on time, taking into account the usual time for loading and shipping.

## 7. Default of the Supplier

There is no need for a warning notice if

1. a period of time according to the calendar has been specified,
2. performance must be preceded by an event and a reasonable period of time for performance has been specified in such a way that it can be calculated, starting from the event, according to the calendar,
3. the Supplier seriously and definitely refuses performance,
4. for special reasons, weighing the interests of both parties, the immediate commencement of default is justified.

The Supplier is not in default for as long as performance is not made as the result of a circumstance for which he is not responsible.

## 8. Delivery Delay

While he is in default, the Supplier is responsible for all negligence. He is liable for performance in the case of chance as well, unless the damage would have occurred even if performance had been made in good time. The Supplier is obligated to compensate SumiRiko for damages caused by delay. In each case of exceeding the the delivery date SumiRiko is entitled to demand a contractual penalty amounting to 0,4% of the contract value per each day commenced by which delivery of the manufactured work ordered by SumiRiko falls behind schedule. The contractual penalty is limited to a maximum of 5% of the contract value. It is payable immediately upon initial request of SumiRiko. Compensation for further reaching damage caused by delay shall not be excluded thereby. In case of exceeding the delivery date for 30 days SumiRiko is entitled to cancel the order without the Supplier being entitled to claim compensation for damages and/or expenses. In connection with this, compensation shall be claimed based on non fulfilment with the contractual penalty being offset against it.

## 9. Force Majeure

Force majeure, labor disputes, unrest, governmental measures and other unforeseeable, inevitable and onerous events free the contractual parties from their performance obligations for the duration of the disturbance and for the extent of its impact. This also applies if these events occur at a point during which the contractual party affected is behind schedule. The contractual parties are obligated, to the extent reasonable, to immediately provide the necessary information and to adapt their obligations to the changing conditions in good faith.

## 10. Quality and Documentation

With regard to the goods delivered, the supplier must adhere to the recognised technological regulations, safety regulations and the agreed technical data. Changes to the delivery items require prior written approval from us.

## 11. Liability for Defects

1. In case defective goods are delivered and if the respective legal and below-listed requirements are present— if not otherwise agreed—the orderer can request the following:
  - a) Before beginning production (processing or installation), the orderer first has to give the supplier the opportunity to screen for defects and eliminate them or to provide a subsequent (replacement) delivery unless this is unacceptable to the orderer. If the supplier is unable to do this or does not comply immediately, the orderer can withdraw from the contract without giving further notice as well as sending the goods back to the supplier at the supplier's risk. In cases of emergency, in consultation with the supplier, the orderer can repair the defect himself or hire a third party to do the repairs. In this case, the supplier shall pay the costs. If the same goods are repeatedly delivered with defects, the orderer is also entitled, after a written letter of caution, to cancel non-fulfilled deliveries in case of repeated unsatisfactory deliveries.
  - b) If defects are found after production has begun despite compliance with the obligations as per Section 4 (letter of complaint), the orderer can
    - pursuant to § 439 Section 1, 3 and 4 of the Civil Code (BGB)— request subsequent delivery and compensation for transport costs necessary for subsequent delivery (not including towing expenses), assembly and disassembly costs (labor and material costs to the extent agreed) or
    - reduce the purchase price.
  - c) In case of a liable breach of duty that goes above and beyond the delivery of defective goods, for example, in the case of declaration, consultation or inspection obligations, the orderer can request compensation for the consequential damages as well as for the consequential damages reimbursed by the orderer to its own customer as per the law and according to the provision in Section IX. Consequential damage refers to damage that the orderer himself has suffered due to supplying defective goods to other parties rather than the damage to the goods themselves.
 

The orderer can only make claims for additional expenditure and compensation as a result of the delivery of defective goods pursuant to § 437 from the Civil Code or directly from the provisions mentioned therein if this has been included in the agreement.
2. The orderer is obligated to provide the supplier with the parts to be replaced upon request and at the supplier's expense.
3. Claims made due to liability for defects are barred from the statute of limitations at the end of twenty-four months from the time the vehicle was initially registered or the replacement parts installed, however no later than 30 months after delivery to the orderer. For commercial vehicle goods, the legal limitation regulations shall apply unless otherwise agreed.
4. Claims for defects cannot be made if the defect can be traced back to incorrectly following operating, maintenance and installation instructions, unsuitable or improper use, incorrect or negligent handling and natural wear and tear as well as interference's from the orderer or third parties in the delivery item.
5. In case of defective deliveries, claims made by the orderer based on the product liability law, unauthorised handling and business management without mandate remain untouched by this Section 10. Quality and durability guarantees have to be expressly designated as such separately and in writing.

## 12. Liability

As long as a different liability provision is not provided somewhere else in these terms and conditions, the supplier is only obligated to compensate for damages under the following circumstances: for damage as a direct or indirect result of a defective delivery, due to violations of governmental safety regulations or for any other legal grounds that can be attributed to the fault of the supplier.

1. The obligation to compensate for damages generally only exists if the supplier is considered at fault for the damage he has caused.
2. If a claim is made against the orderer due to liability without fault toward third parties with regard to laws that cannot be altered, the supplier shall support the orderer to the extent as if he were directly liable.  
For the claims settlement between the orderer and the supplier, the basic principles of § 254 of the Civil Code (BGB) shall apply accordingly. This also applies in case of direct recourse to the supplier.
3. The liability to pay compensation is excluded to the extent the orderer for his part has effectively limited his liability with regard to his buyers. In doing so, the orderer will take care to arrange liability limitations within a legally permissible scope for the supplier as well.
4. Claims by the orderer are excluded if the damage can be traced back to the orderer failing to follow operating, maintenance and installation instructions, unsuitable or improper use, incorrect or negligent handling, natural wear and tear or repairs incorrectly performed.
5. The supplier is liable for measures implemented by the orderer to prevent damage (e.g. recalls) to the extent he is legally obligated.
6. The orderer will inform and consult with the supplier immediately and in great detail if he wants to file a claim in accordance to the above regulations. The orderer has to give the supplier the opportunity to investigate the damage event. The contractual parties shall agree on the measures to be implemented, particularly with regard to settlement negotiations.

### **13. Patent Rights**

With regard to the use of the delivery items as stipulated in the agreement, the supplier is liable for claims resulting from the infringement of patent rights and patent registrations (copyright laws). The supplier shall release the orderer and its buyers from all claims based on the use of such patent rights. This shall not apply as long as the supplier has produced the delivery items according to the drawings, models or these other matching descriptions or information submitted by us and does not know or does not have to know, in conjunction with the results developed for him, that producing them is a violation of patent rights.

As long as the supplier is not liable according to the above paragraph, we shall release him from claims filed by third parties. The contractual parties are obligated to immediately inform themselves of infringement risks that are becoming known and alleged cases of violation and to give themselves the opportunity to respond jointly to the corresponding claims.

The supplier will inform us upon request on the use of released company and licensed patent rights and patent registrations concerning the delivery item.

### **14. Using the orderer's production equipment and confidential information**

Models, templates, designs, samples, tools and other production equipment that we have made available to the supplier or that were fully paid to the supplier may only be used for delivery to third parties if we have given prior written approval. The same applies to confidential information.

### **15. Reservation of Proprietary Rights**

The supplier reserves the right of ownership to all goods supplied by him until they are fully paid for. In this case, all deliveries are considered a coherent standard products business. In case of payment instalment's, reserved ownership is considered collateral for balance claims.

If we combine the goods with other items to make a uniform product and if the uniform product is to be considered a principal product, then we are obligated to transfer a share of the joint ownership to the supplier as long as the essential product belongs to him. If we duly sell the goods delivered, we herewith transfer claims from the sale with regard to our buyer along with all the subsidiary rights to the supplier until all debts owed to the supplier have been paid off.

For a justified cause, we are obligated, at the supplier's request, to inform third party buyers of the transfer and to give the supplier the information necessary to assert his rights and to hand over documents.

The supplier will release the collateral he has been holding as long as its value exceeds the debts to be secured by more than a total of 20%.

### **16. General Provisions**

If one contractual party stops payments or if bankruptcy proceedings concerning his assets are initiated, the other contractual party is entitled to cancel the part of the contract not yet fulfilled.

Should one or more provisions of this agreement and additional written agreements be or become ineffective, it shall not otherwise affect the validity of this agreement. The contractual parties are obliged to substitute the ineffective provision with a provision that comes as close as possible to it in terms of its economic meaning.

The laws of the Federal Republic of Germany shall apply exclusively, unless otherwise agreed. The application of collision rights and UN purchasing rights (UN agreement on the international sale of goods, dated November 4, 1980) is excluded.

The place of performance is Steinau an der Straße unless otherwise agreed. The court of jurisdiction is, according to our choice, the court or place of performance responsible for us or our suppliers.