

GENERAL CONDITIONS OF DELIVERY FOR THE PLASTICS INDUSTRY

Adopted in 1994 by the Swedish Plastics Industry Association and the Plastics and Chemicals Federation.

These conditions of delivery have been drawn up taking into account the relevant legal rules of the EU for this contractual area.

Applicability

1. These general conditions of delivery shall apply when they have been agreed between the parties in writing or otherwise. Departures from the conditions must be agreed in writing in order to be valid.

Product information, drawings and descriptions

2. Particulars contained in product information and price lists are binding only to the extent that the contract expressly refers to them.

3. All drawings and technical documents for manufacture of the goods or a part thereof which have been supplied by a party before or after the making of the contract remain the property of the party supplying them, without whose written permission they must not be used by the receiving party or be copied, reproduced, surrendered or otherwise brought to the knowledge of a third party.

Models, moulds, tools and equipment

4. Models, moulds, tools and equipment which have been manufactured by the vendor or by a third party on behalf of the vendor remain the vendor's property unless otherwise agreed.

5. Models, moulds, tools and equipment supplied by the purchaser remain his property and shall after the fulfilment of the contract be returned to the purchaser should he so request.

The vendor may not use models, moulds, tools and equipment supplied by the purchaser for purposes other than the fulfilment of the contract. Nor may such models, moulds, tools and equipment be surrendered to or otherwise brought to the knowledge of a third party.

6. When the vendor has been commissioned to manufacture models, moulds or tools, this shall be done in consultation with the purchaser and taking account of the purchaser's technical requirements. Unless it has been otherwise agreed, the purchaser is responsible for the costs of repair or manufacture of models, moulds or tools due to wear or other causes which are not attributable to the vendor.

7. The vendor is responsible for storage of models, moulds, tools and equipment during the agreed delivery period. In cases where models, moulds, tools and equipment belonging to the purchaser remain with the vendor after the final production stated in the contract, it is incumbent on the latter to arrange storage at the purchaser's risk, although for not more than one year after the completed delivery.

A year after completed delivery the parties shall agree on return or scrapping of models, moulds, tools and equipment. If this has not been done, the vendor has free right of disposal of the equipment in question. All the obligations of the vendor relating to models, moulds, tools and equipment possessed by him lapse two years after completion of delivery.

8. It is incumbent on each party to arrange and meet the cost of insurance of models, moulds, tools and equipment owned by him which are at the premises of the vendor.

9. The purchaser meets the costs and stands the risk of dispatch and return of models, moulds, tools and equipment.

10. The purchaser is liable for claims for indemnity which may be brought against the vendor in connection with the manufacture of plastic articles which are subject to patent, pattern protection, registered trade mark or other exclusive right when manufacture has taken place in accordance with the specified instruction, drawing, sample, model, moulds, tools or equipment of the purchaser.

Packing, quantity, weight

11. Unless otherwise stated, prices shown in offers and contracts relate to unpacked goods.

12. The vendor reserves the right to make excess delivery or short delivery by a maximum of 10 % of the contracted quantity.

13. Product costing weights calculated by the parties together before manufacture are provisional. In the event of a deviation of more than 5 %, the price shall be adjusted to the actual weight.

Type samples

14. Mass-produced goods shall correspond to type samples approved by the purchaser and manufacture shall not commence until written approval has been obtained from the purchaser.

Quality control

15. Unless otherwise agreed, contracted quality tests shall be carried out at the vendor's premises during normal working hours and at the purchaser's expense.

Transfer of risk on the goods

16. Unless otherwise agreed in writing, the goods are regarded as being sold "free ex-works" in accordance with the current Incoterms.

17. When the contract concluded provides for the collection of the goods, the vendor shall notify the purchaser in good time when the goods are ready for delivery.

Delivery period and late delivery

18. Unless otherwise agreed in writing, the delivery period shall be calculated from the latest of the following dates:

- the date of making the contract,
- the date when the vendor receives such payment as the contract prescribes shall be made before manufacture commences,
- the date when the vendor receives such drawings, samples, models, moulds or tools as the purchaser has under the terms of the contract to make available to the vendor and as the vendor can approve,
- the date when the vendor receives the purchaser's approval of a type sample.

The agreed delivery period assumes that in cases where the purchaser is to supply material to be used in manufacture and in testing this will be available at the premises of the vendor in the quantities and on the dates stated by the vendor.

Should the vendor find that a delivery period agreed by him cannot be maintained or should delay on his part appear likely, he shall notify the purchaser of this without delay, stating the reason for the delay and as far as possible the date when delivery is expected to be able to take place.

19. If delivery is delayed as a result of any circumstance stated in Clause 37 (force majeure) or on grounds of any action or omission on the part of the purchaser, the delivery period shall be extended by a time which appears reasonable taking account of all the circumstances of the case.

20. If the vendor does not deliver the goods within the contracted delivery period or the extended delivery period provided for in Clause 19, the purchaser has the right, if the vendor's lateness is of material significance, to give the vendor written notice cancelling the contract.

21. If the purchaser cancels the contract on the strength of Clause 20, the purchaser has the right to claim reasonable compensation from the vendor for such direct expenses as he has incurred on account of the delayed delivery. With this the purchaser is denied any other right to compensation for the vendor's delayed delivery, such as loss of production, loss of profits or other consequential financial loss. Only if the purchaser cancels the contract is he entitled to compensation on account of the vendor's late delivery. However this limitation does not apply if the vendor has been guilty of gross negligence.

If delayed goods are so related to goods already delivered or goods which are to be delivered later that it would entail significant inconvenience to the purchaser to stand by the purchase, the purchase may be cancelled in its entirety.

22. Should the purchaser find that he will not be able to accept the

goods on the agreed day or should lateness on his part appear probable, he shall immediately notify the vendor of this, giving the reason for the delay and, if possible, the date when acceptance is expected to be possible.

Should the purchaser fail to accept the goods on the agreed day, he is nevertheless liable to make every payment which is dependent on delivery, as if the goods in question had been delivered. The vendor shall arrange for storage of the goods at the purchaser's risk and expense. If the purchaser so request, the vendor shall insure the goods at the purchaser's expense.

23. Unless the failure of the purchaser as stated in Clause 22 is due to a circumstance referred to in Clause 37 (force majeure), the vendor has the right to request the purchaser to accept the goods within a reasonable time. If the purchaser, irrespective of the cause, fails to do this within such a period, the vendor has the right to give the purchaser written notice cancelling the contract with regard to such part of the goods as has as a result of the purchaser's omission not been accepted, and to receive from the purchaser indemnity for loss which has been caused to him by the purchaser's omission. The maximum indemnity which is payable may not exceed that part of the purchase price which relates to the part of the goods which has not been accepted.

Payment

24. Payment shall be made in accordance with the terms which have been agreed between the parties.

Should a change in currency exchange rates, raw material prices, taxes and public charges occur after the date of the offer, price list or signed contract, the vendor has the right to adjust the price in proportion on delivery.

25. Should the purchaser not pay within the prescribed time, the vendor has the right to charge penalty interest from the due date at the rate of interest provided by the current Interest Act (1975:635).

26. If the purchaser has not paid within 60 days from the due date, the vendor has the right to give the purchaser written notice cancelling the contract. The vendor then has, in addition to penalty interest, a right to indemnity for the loss he suffers.

Reservation of right of ownership

27. The goods remain the property of the vendor until they have been paid for in full, to the extent that such a reservation of right of ownership is valid in current law. Irrespective of the provisions of Clause 5, the vendor has the right to refuse to surrender models, moulds, tools or equipment belonging to the purchaser until the goods have been paid for.

Liability for defects

28. Should goods delivered turn out to have a defect for which the vendor is responsible, the latter is obliged free of charge within a time which is reasonable with regard to the circumstances at his own choice to take back, replace, repair or rework the rejected product, provided that the purchaser makes a complaint in writing within 14 days after he discovered or ought to have discovered the defect. If there is reason to assume that the defect may entail a risk of injury or damage, the complaint shall be made immediately.

29. The vendor's liability relates only to defects which appear within a year from the date when the goods were delivered. Should the goods be used in a different manner from that which could have been anticipated when the contract was made, the period of liability is shortened correspondingly.

30. All transport in conjunction with repair, return, replacement or reworking shall take place at the vendor's risk and expense. The purchaser shall follow the vendor's instructions concerning how transport is to be effected.

31. The purchaser shall meet the additional costs of remedying defects which the vendor incurs as a result of the fact that the goods are elsewhere than at the place of delivery stated in the contract.

32. Should the vendor not meet his obligations under Clause 28 the purchaser is entitled to give him in writing a final date for doing so. Should the vendor not meet his obligations within this period the purchaser has the right instead to give the vendor written notice cancelling the contract.

33. The vendor's liability does not cover defects which are due to material supplied by the purchaser or to designs prescribed or specified by him.

34. The vendor's liability covers only defects which arise under the working conditions assumed in the contract and with correct use of the goods. It does not extend to, for example, defects caused by inadequate maintenance or

incorrect assembly by the purchaser, modifications made without the vendor's written consent or repairs incorrectly carried out by the purchaser. Nor does the liability extend to normal wear or deterioration.

35. The vendor has no liability for defects beyond that prescribed in Clauses 28-34. Should the purchaser cancel the contract under Clause 32, however, the purchaser has a right to indemnity for loss arising from the purchase up to a maximum of double the value of the defective plastic goods delivered. The vendor is in no case liable for indirect losses which the defect may cause, such as loss of production, loss of profits or other consequential financial loss. However this limitation of the vendor's liability does not apply if he has been guilty of gross negligence.

Liability for loss caused by the goods

36. The purchaser shall indemnify the vendor to the extent that the vendor becomes liable to a third party for product damage to real or movable property or personal injury caused by the goods.

However the vendor is liable for damage to real or movable property or personal injury which the goods cause while in his possession.

The vendor is not liable in any circumstances for loss of production, loss of profits or other consequential financial loss.

The aforesaid limitations of the vendor's liability do not apply if he has been guilty of gross negligence.

Should a third party present a claim against the vendor or the purchaser for compensation for injury or loss as referred to in this clause, the other party shall be notified of this immediately.

The vendor and the purchaser have the right to intervene in court or arbitration tribunal proceedings which concern a claim for compensation against either of them, if the claim is based on injury or loss which is alleged to have been caused by the goods delivered. However the relationship between the purchaser and the vendor shall always be governed by the provisions of Clause 40.

It is incumbent on the parties to contract and maintain satisfactory product liability insurance.

Grounds for exemption (force majeure)

37. The following circumstances constitute grounds for exemption if they lead to the performance of the contract being prevented or unreasonably onerous: labour dispute and any other circumstance over which the parties have no control, such as conflagration, war, mobilization or military call-up of similar extent, requisitioning, confiscation, currency restrictions, insurrection, riot, scarcity of transport, general scarcity of goods, restrictions on the import of fuel and defect or delay in deliveries by sub-contractors which are caused by such circumstances giving grounds for exemption.

The aforementioned circumstances constitute grounds for exemption only if their effect on the performance of the contract could not reasonably have been foreseen when the contract was made.

38. It is incumbent on a party wishing to claim grounds for exemption as referred to in Clause 37 to notify the opposite party in writing without delay of the existence of such grounds, and also of their ceasing to exist.

In the event of force majeure affecting the purchaser he shall indemnify the vendor for the costs which the latter incurs in securing or protecting the goods.

39. Irrespective of other provisions of these conditions, each party has the right to give the other party written notice cancelling the contract, if the performance of the contract is delayed by more than six months by circumstances constituting grounds for exemption as referred to in Clause 37.

Disputes, applicable law

40. Disputes arising from the contract and other matters connected with it may not be brought before a court but shall, except in cases mentioned below, be settled by arbitration in accordance with the current Swedish Arbitration Act.

Should the dispute concern a value of less than ten times the base amount under the National Insurance Act (1962:381), a party has the right to have the case settled in a Swedish court.

41. All disputes arising from the contract shall be judged in accordance with Swedish law.