

GENERAL TERMS AND CONDITIONS

1. Scope of Application

The following general terms and conditions of DODUCO GmbH shall govern the entire business relationship with the customer, even if no reference is made to them during subsequent business transactions. They shall also apply if the customer refers to different terms and conditions in its order or in a letter of confirmation, unless we have expressly agreed to such different terms and conditions in writing. By taking delivery of our goods, the customer consents to our general terms and conditions. If the customer does not wish to consent, it shall promptly make an objection. Objection according to printed form will not be deemed sufficient.

2. Offer and Order

An order shall not be binding until the order is confirmed by us in writing. Oral agreements or agreements by telephone shall not become part of the contract unless confirmed by us in writing.

If the customer objects to the contents of the confirmation of order or the timeliness of receipt, the customer shall promptly make an objection in writing, otherwise the contract will be deemed entered into as provided for in the confirmation of order. If applicable to the contract the right to cancellation at any time pursuant to Section 649 sentence 1 of the German Civil Code is excluded.

3. Delivery Periods

The delivery date is shown by our confirmation of order. In the event of subsequent change requests made by the customer, the delivery period shall be extended in correspondence with the new arrangements to be made. This shall also apply if performance details are to be clarified after the confirmation of order or the customer has not yet furnished the documents, permits, approvals or releases to be procured by the customer or an agreed advance payment, if any, has not yet been received.

Without prejudice to our rights arising from the default of the customer, the delivery period shall be extended by the period during which the customer is in default of any of its obligations under this order. The delivery period shall also be extended by the period during which the customer is in default of any of its obligations under another order.

Finally, the delivery period shall be extended by the period during which the production is deferred due to the customer's default provided that we deem the deferral required to ensure the supply of other customers. In this case, a new delivery date is to be arranged with the customer.

In the event of force majeure, breakdowns or interruptions of operations which are beyond our control, strikes and lock-outs, the delivery period shall be extended correspondingly. This shall also apply if, without a fault on our part, materials or accessories are supplied to us not at all or only with delay.

If the customer suffers a loss or damage because of a delay which has arisen due to a fault on our part, the customer shall have the right to claim compensation for damage occasioned by delay after having granted a reasonable grace period, excluding the right to claim further damages on grounds of delay. For each full week of delay calculated from the expiration of the grace period, the compensation for damage occasioned by delay shall amount to half a percent of the value of the portion of the overall consignment which cannot be made use of in due time or according to contract as a result of such delay, provided, however, that such compensation shall not exceed five percent of such value in the aggregate. The value of the precious-metal content shall be left out of account in the calculation of such compensation. If liquidated damages have been agreed, any and all damage caused by delay will be deemed to be covered by such liquidated damages. All further claims for damages are excluded, with the exception of cases where damage is caused by gross negligence on our part or on the part of the persons employed by us in the performance of our obligations.

4. Transport and Passing of Risk

Transport is to be carried out at the expense and following instructions of customer. In the absence of opposite instructions of the customer, we are entitled to send the goods freight collect and to determine the means of transportation and routing at our equitable discretion.

In the absence of other agreements, we are entitled to insure the full value of the goods at the customer's expense. Otherwise, the customer is obliged to insure the full value of the goods himself, unless the purchase price has been fully discharged before shipment to the customer.

The goods must be examined promptly by the customer with respect to shipping damages. Established shipping damages must be recorded in writing and notified to us promptly. Customer is responsible for damages supported by us due to delayed examination and/or notification of the customer.

The passing of risk takes place ex work (EXW), even if partial deliveries are made or additional services, e.g., payment of shipping cost or transport and installation, are rendered by us.

If shipment is delayed due to circumstances for which the customer is responsible, the risk shall pass to the party ordering as from the date of readiness for shipment.

Partial deliveries are permissible, provided that they do not result in a default on our part.

5. Reworking

a) Delivery

The costs and risk of the delivery to our works of materials to be reworked and materials to be neutralized shall be borne by the customer even if we make available a means of transportation.

b) Reservation

If the material we have received for reworking requires additional expenditure on account of special properties not specified to us by the customer when placing the order, we reserve the right to charge such expenditure in addition to the expenditure specified in an offer or cost estimate submitted by us as well as the right to extend the redelivery and/or purchasing periods, if applicable, accordingly. At our option, we may rescind the contract.

The material to be reworked shall be properly packed by the customer, observing any instructions which may have been given by us.

Hazardous (e.g., toxic, caustic, explosive, highly flammable, radioactive) material to be reworked and material containing harmful and irritating substances (e.g., chlorine, bromine, fluorine, mercury, arsenic, selenium, tellurium, etc.) shall not be taken delivery of, unless such delivery or acceptance has been expressly coordinated with us in advance. Further conditions are safe packing and careful identification.

c) Liability for material to be reworked and material to be neutralized

The customer is only entitled to claim damages for improper handling or storage or a loss of material incurred therefrom if and inasmuch as our property insurer and/or third-party liability insurer has issued a cover note. In addition thereto, we shall be liable for damage to life or health and for bodily injury in case of simple negligence and we shall be liable in case of a breach of a material contractual obligation. In the latter case, however, our liability is limited to foreseeable damage which is typical of this contract. Unless stipulated otherwise, we shall only be liable for damage caused intentionally or by gross negligence.

All of the remaining risks, however, shall be borne by the customer. Unless we assume liability as set forth in the foregoing paragraph, the customer shall be liable in particular for any damage sustained by the customer, by us or by third persons as a result of the hazardous nature, insufficient safety of the packing performed by the customer and incorrect or imprecise identification of the materials to be reworked or neutralized. As a matter of principle, such liability shall terminate when the material has been completely cleared, whereas in the case of radioactivity the liability shall continue until the amount of radioactive isotopes has fallen below the values which are permissible for our precious metals and precious-metal products.

This provision shall also apply to job processing work carried out by us.

In all other respects, the provision set forth in item 10 shall apply.

6. Accounting and Redelivery

Accounts shall be drawn up on the basis of the weights and contents determined by us prior to reworking. Such accounts shall become binding unless the party ordering objects thereto in writing within a period of two weeks from the date of our account. After weighing and sampling, we are entitled to process the material to be reworked.

e) Setoff

Subject to the customer's consent, the cost of reworking can be set off against the value for the metals to be returned.

f) Transfer of title to materials to be refined

1. The customer retains title to the materials to be refined. In the event of processing or reworking, the customer shall be the manufacturer of the new products as set forth in sec. 950 of the (German) "BGB" (Civil Code) Therefore, the customer retains title to the materials during as well as after the completion of refining process.

2. We are entitled to hold all precious-metal stocks of all customers in custody together. If such stocks are mixed with other precious-metal stocks of the same type and grade while being held in custody, the owners of the precious-metal stocks become co-owners under the management of DODUCO GmbH. The extent of the co-owner's share of the customer in the co-owned stocks is shown by the so-called personal metal accounts. If precious metals are purchased or sold, the passage of title is accomplished by the entry in the respective personal metal account.

6. Prices

Our prices are quoted net without any deductions, in euros exclusive of tools, patent rights, packing, freight, postage, insurance, customs clearance, unloading, installation and VAT. Such charges will at our option be added the price, paid directly by the customer or reimbursed by customer if paid by us.

The customer shall accept usual quantity and weight tolerances in deliveries. In case of over-deliveries, we are entitled to claim an equivalent additional price. In case of under-deliveries, the customer may at its option claim equivalent credit or reduction of the purchase price. Unless otherwise agreed to in writing by us, our prices (i) are Ex Work of DODUCO GmbH plant, (ii) do not include the price of the silver, nickel and/or other metals contained in the product, which price shall be separately stated on the invoice, and (iii) are exclusive of transportation, insurance, taxes, license fees, customs fees, fees and other charges.

If the pay stipulated in the relevant collective bargaining agreement or the material prices have changed by an agreed delivery date which has been fixed at a date which is more than four weeks from the confirmation of order, we are entitled to adjust the price by an amount not exceeding the additional costs actually incurred.

7. Terms of Payment, Default

Our invoices are payable as follows:

a) Tools, paid labor and precious metals (also those processed): Prompt cash on receipt of invoice without deductions.

b) Other services and supplies:

Cash within 30 days from the date of invoice without deductions or as agreed.

Bills of exchange will not be accepted by us as means of payment for settling invoices nor will they be applied as payment to the customer's debt under such invoices. Checks will be taken in by us, but credit to the customer's debt will be made only after actual receipt of the funds.

If the customer defaults in payment, the customer shall pay default interest in the amount of 8 percentage points above the base interest rate, without prejudice to any further damage.

If several invoices and/or claims are unsettled, the debt outstanding under such invoices and/or such claims shall at all times be discharged in the order set forth in sec. 366 para. 2 of the Civil Code, even if the customer has provided otherwise.

If we become aware of any protested bills of exchange of the customer, of any steps taken to foreclose upon the property of the customer, of any other material deterioration of assets or if, in the event of an ongoing business relationship, the customer is in arrears with payment of other invoices, we may, at our option, demand that, prior to delivery, the respective claim be settled or security provided. We are not obligated to continue delivery until such demand has been complied with.

8. Setoff, Retention

The customer shall not have any right of setoff except when the counterclaims against us are uncontested or have become res judicata in the merits and in terms of amount. A right of retention only exists if it is founded on the same contractual relationship.

We are entitled to use the service of subcontractors in connection with the execution of our contractual obligations.

9. Retention of Title

a) We retain title to the goods delivered until the purchase price or the consideration have been paid in full and all past or future deliveries made under the business relationship, including any and all accessory claims, have been paid, and in case of payment by check or bill of exchange, until the check or bill has been honoured. This provision shall also apply if the price of specific deliveries of goods which have been designated by the customer has been paid.

b) If the customer fails to meet its obligations under the contract of sale or under any other contract within the scope of the current business relationship, we are entitled to rescind the contract of sale subject to the conditions set forth in sec. 323 or sec. 324 of the Civil Code. In such case, the customer is obligated to promptly restore to us the goods delivered. If the value of the goods returned has decreased between the date of delivery and the date of return, the party ordering is obligated to refund the difference to us.

c) In the event of a current account, the retained title constitutes security for our claims for payment of the balance. If ordering by check or bill of exchange procedure has been agreed upon, the title shall not pass in the abovementioned cases until the bill(s) has (have) been finally honoured.

d) The customer is only allowed to sell the goods in the ordinary course of business (i.e., no transfer by way of security, no pledging, no *en bloc* sale) and only as long as the customer is not in default in the performance of its contractual obligations.

e) In the event of sale, the customer, for that contingency, herewith irrevocably assigns to us as security any claims which are due to the customer based on such sale, working or processing or any other legal ground as well as a claim to restoration which is based on retention of title. Furthermore, the customer assigns any insurance claims arising from damage to or loss, theft or robbery of the goods.

f) If goods which are subject to retention of title and which have been processed or combined with goods which have not been delivered by us are sold, the customer's claim is assigned to us at the ratio of the invoice value of the processed goods which are subject to retention of title to the cost of acquisition of the other processed goods.

g) If the customer uses our goods under a contract for work and services, the customer herewith assigns to us its claim to consideration against its contracting party in the amount of the remaining debts. We accept such assignment. Such assignment shall apply even if the goods which are subject to retention of title have been previously worked or processed first by customer or are sold to several buyers.

h) If goods are processed, combined or installed by the customer with goods which are not owned by us, title to the new products is due to us at the ratio of the invoice value of the processed goods which are subject to retention of title to the cost of acquisition of the other processed goods. We are the manufacturer within the meaning of sec. 950 of the Civil Code. In all other respects, the new products are subject to the same conditions which are applicable to the goods which are subject to retention of title.

i) The customer is entitled to collect the claims which have been assigned to us. In the event of default or if the conditions of accelerated maturity have been met, we are entitled to revoke the authorization to collect our claims and disclose the respective accounting.

j) We undertake to release, at our option, the security described above if the realizable value of such security exceeds the claim to be secured by 20%.

10. Notification of Defects

The customer shall promptly inspect the goods. Parts designed to be installed shall be carefully checked (tested) for all quality characteristics prior to installation. Any recognizable defects shall be notified in writing within one week prior to any processing or prior to the intended installation. The notification period commences at the date of receipt by the customer or the buyer designated by the customer.

Installation or working performed without inspection or testing is tantamount to the approval of the delivery as performance of the contract and excludes any warranty claims except in the event of latent defects. Latent defects shall be notified promptly after detection. The customer shall preserve evidence of the defects and afford us the opportunity to verify such evidence.

If the customer fails to meet such obligation or observe the time limit for the notification of defects, the delivery is deemed to be approved. In such case, warranty claims and claims for damages, if any, are excluded.

11. Liability for Material Defects as well as Guarantees of Quality and Durability

We are obligated to deliver our goods free from material defects. Claims of the customer become statute-barred after twelve months from taking delivery and/or acceptance.

If we guarantee the quality or durability of specific goods, such guarantees shall be considered dependent guarantees in case of doubt. Guarantees must be individually specified in writing in each specific case and expressly referred to as guarantees. In case of doubt, dimensions, weights, capacity and quality data as well as technical data of any kind do not constitute guarantees but only product descriptions.

We reserve the right to make modifications to the design and/or construction which do not impair the proper functioning or value of the delivery item, and such modifications do not entitle the customer to give notice of defect, except when we have furnished a relevant guarantee.

Unless prescribed otherwise by the customer, we specify the materials according to our experience and with a view to the intended use. However, a recommendation which has been made by us does not release the customer from its obligation to check the suitability of the materials for its particular case. In the event of justified notifications of defects and complaints, we are entitled to remedy such defects and/or, at our option, deliver a substitute. In the event that the goods are returned to us for repair, the means of transportation will be determined by mutual agreement. The customer has to ensure sufficient secure transportation. We are moreover entitled to refuse goods which have been reworked or otherwise altered without our consent. If it turns out that goods returned for remedy were free of defects, the customer has to reimburse all necessary expenses incurred by us in connection with the inspection.

If we refuse to remedy defects or make substitute delivery or if our effort to remedy defects is unsuccessful or substitute delivery is not effected within a reasonable period, the customer is entitled to demand rescission of the contract or the reduction of the purchase price. Claims for material defects are excluded in case of improper handling, faulty assembly, third-party interference and defects caused by processes which are beyond our control.

Not applicable to claims for material defects.

Further claims of the customer for material defects, in particular claims for damages based upon direct and indirect damage, and also claims in tort or claims based upon breach of duty within the meaning of sections 280 et seq. of the Civil Code, are excluded, unless we have assumed liability under a guarantee or the damage has been caused intentionally or by gross negligence on our part.

In case of a breach of a material contractual obligation, our liability is limited to foreseeable damage which is typical of this contract, unless a greater damage is established according to this provision.

The above limitations of liability are not applicable in the event of losses resulting from damage to life or health or from bodily injury if such damage or injury has been caused by us or our legal representatives or the persons employed by us in the performance of our obligations. Claims, if any, under the German „*Produkthaftungsgesetz*“ (Product Liability Act) shall not be affected by this agreement.

12. Additional Provision Relating to the Delivery of Chemicals

We warrant that electroplating baths, chemicals and other consumable materials delivered by us will be free from defects on the day of delivery. Notifications of defects shall be given promptly but not later than ten days from the receipt of the respective shipment.

In the case of newly prepared and regenerated baths, the proof of the perfect quality and operation of the chemicals delivered will be deemed furnished as soon as the baths have been demonstrated by one of our specialists and handed over without complaints. After such time, the notification of defects is excluded, except for latent defects. In such case, the provisions of item 10 shall apply accordingly.

If the customer mixes or adds preparations or chemicals without calling in one of our specialists or without complying with the relevant working regulations, the notification of defects is excluded, unless the party ordering furnishes evidence of defective delivery and, upon our request, affords us the opportunity to verify such evidence on site.

If the customer furnishes evidence of a quality defect of the baths, chemicals or other consumable materials delivered, we are only obligated, at our option, to replace the defective amount of chemicals delivered by us, free of charge, or regenerate a non functional bath at our expense and at our discretion. Only if subsequent performance is unsuccessful, the customer is entitled, at its option, to reduce the purchase price or rescind the contract.

Further claims are excluded unless the relevant damage has been caused intentionally or by gross negligence or the claims relate to damage to life or health or bodily injury and/or a breach of a material contractual obligation. In the latter case, we are only liable for foreseeable damage which is typical of this contract.

13. Counseling, Planning, Design, Permits or Approvals from Public Authorities

Counseling, planning and design work performed for the customer is only binding insofar as it relates to the use of our delivery item according to the customer's specifications and is based upon complete written information about the intended use furnished by the customer. If our work is binding and an order is placed, we are liable for defects, if any, in correspondence with the provisions of item 11.

If products, equipment or plants are developed by us together with the customer but the intended use understood by both parties cannot be achieved, we are only liable if the agreed requirements specifications have not been met. In such case, the scope of liability shall be that resulting from item 11.

If the customer supplies drawings, plans, data and other information, it is solely incumbent on the customer to check the correctness thereof. In case of doubt, any advice or suggestion given by us is of no binding force.

It is the responsibility of the customer to ascertain whether or not the operation of the plant/equipment ordered by the customer is subject to a permit, license or approval to be obtained from the public authorities and whether or not such operation complies with the provisions of public law.

14. FORCE MAJEURE

We will not be responsible or liable for any delay, failure to perform in whole or in part or any other breach of contract caused by fires, floods, strikes, work stoppage, casualty, epidemic, terrorism, war, riots, sabotage or by any other circumstances beyond our reasonable control.

15. Third-Party Rights, Intellectual Property, Rights in Tools and Special Facilities

a) In the event of order according to drawing or sample or other specifications of customer, the customer is responsible to us for preventing any infringement of third-party rights, especially patent rights, copyrights, trade mark rights or other rights of intellectual property.

b) We retain title to and/or copyright in the drawings, sketches or samples enclosed with our offers. Such drawings, sketches and samples shall not be made available to any third party without our written consent and shall be returned by the customer of its own accord if the contract is not entered into with us.

c) It is our responsibility that products based on our drawings, samples or other specifications do not infringe any third party patent rights, copyrights, trade mark rights or other rights of intellectual property. In the event of such infringement of third party rights by one of our products, we shall free customer from any third party claims or, at our choice, procure for customer the right to continue using the product or replace it with a product that does not infringe such third party rights.

d) In the event that (a) we are notified immediately in writing of such claims of infringement and is given full authority, information and assistance in settling and defending such claim and (b) we shall have no liability whatsoever with respect to (i) any claims settled by the customer without our prior written consent, (ii) any modification of products or (iii) any use or combination of products with products not furnished by us, except if the customer proves that a claim is not caused or increased by (a) or (b). At our choice or in case of failure of said measures, we shall refund the purchase price against return of product. Our liability is excluded if the customer acknowledges or settles claims asserted by third parties without our consent.

e) As far as not expressly agreed otherwise, we remain owner of tools we provide to perform our services. Their use is reserved separately as displayed. The customer does not have any right to possession with respect to these tools.

f) Title to any tools and special facilities ordered shall pass to the customer after such tools and facilities have been paid in full. We have the right to possession. Such right shall only lapse if we fail to meet our delivery obligations in spite of having been allowed reasonable time and threatened with refusal.

g) Such right to possession shall survive the termination of the business relationship. It is understood and agreed between the contracting parties that the customer is obliged to take back the tools at its expense or to approve the tool's scrapping at its expense.

16. Place of Performance, Jurisdiction, Applicable Law

The place of performance and jurisdiction in respect of all obligations arising under this contract, including matters relating to checks and bills of exchange, shall be the registered seat of the supplier or, at our option, the registered seat of the customer.

This contract shall be governed by the laws of Germany.

The United Nations Convention on Contracts for the International Sale of Goods (UN Sales Convention) shall not apply.

17. Severability Clause

If any provision of the above General Terms and Conditions is held to be valid under the established practice of the courts at the time the contract is entered into but is subsequently held to be invalid as a result of a change in the practice of the courts, such provision shall be converted into a provision which is valid under the changed practice of the courts and which comes as close as possible to the originally contemplated provision in essence and purpose.

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