

I. Scope

The General Terms and Conditions (hereafter called GTC) as below apply exclusively for all deliveries and services of Ostthüringische Materialprüfgesellschaft für Textil und Kunststoffe mbH (hereafter called OMPG). When placing the order with OMPG their GTC are deemed to be acknowledged unless the customer expressly objects to their validity when placing the order. Changes to the GTC, when they have come into force, subsequently become an integral part of current contracts if the customer, despite being particularly informed about his right of objection, does not object within a period of one month after the change was communicated. Customers' GTC do not come into legal effect.

II. General Provisions

1. Scope and Execution of Services

The services of OMPG arise from the confirmation of the order; all agreements including amendments, changes and supplementary agreements must be in written form. OMPG reserves oral confirmation for themselves.

Dates and periods of deliveries and services are binding only if confirmed in writing by OMPG. Agreements on dates and periods are made on the condition that the suppliers and co-operation partners of OMPG comply with the commitments they have entered themselves. Force majeure, general supply problems, disruptions at transportation companies, operative and other disruptions at OMPG or at their suppliers or their co-operation partners which OMPG are not responsible for as well as the consequences of these problems release OMPG from their obligation to provide indemnification for the duration of the disruptions and to the extent of their effects. Such events furthermore entitle OMPG not to render contractual services, obligation to indemnify excluded. In case the service is not available OMPG shall immediately inform the customer about this circumstance and shall immediately reimburse any rewards already paid.

Objections to the contents of an expertise, a confirmation of order or an invoice have to be made and specified in writing immediately, at the latest, however, within four weeks after receipt. Unless objections are made within this period the expertises or invoices are deemed to be confirmed.

In case of a mutual commercial transaction the obligation of Examination and Notification of Non-Conformity according to section 377 [German Commercial Code] applies to the customer also regarding deliverables and services supplied/rendered by OMPG.

2. Terms of Payment

Invoices are due and payable due net within a period of 14 days after receipt.
In case of default of payment the legal regulations apply.

3. Liabilities, Period of Limitation

OMPG shall be liable for damages caused wilfully and/or with gross negligence. The period of limitation of claims is in accordance with the legal regulations.

III. Terms of Sale and Delivery

1. Prices, Additional Expenses

The sales prices arise from the pricelists effectual at the time and are free to goods receiving point of the customer within the Federal Republic of Germany. Costs for packing, transport and administrative expenditures can be invoiced separately.

2. Shipment, Passing of Risk

Shipment is uninsured at the customer's risk. The mode of dispatch is chosen by OMPG. The customer has to provide institutions and/or deposit facilities warranting at any time that any access by unauthorized third parties to the delivered goods is excluded. The customer is responsible for the protection of goods deposited in the receiving area designated by the customer from the access by unauthorized third parties.

3. Supplementary Performance

Warranty claims of a commercial customer exist only if he has fulfilled his obligation of Examination and Notification of Non-Conformity according to sections 377 and 378 [German Commercial Code].

The customer allows OMPG the time and opportunity necessary according to equitable discretion for supplementary performance. If the customer denies this OMPG is exempt from supplementary performance. Rights of the customer according to section 437 are inapplicable if a defect as to quality is based on the fact that the customer or third parties, without the consent of OMPG, have changed products, used and repaired them inappropriately or have not installed, operated and maintained them in accordance with the OMPG guidelines.

4. Retention of Title

OMPG reserve the right of property regarding the goods delivered until the purchase price has been fully paid and all claims, also future (balance) ones, have been fulfilled (reserved goods).

Any treatment or processing of the reserved goods is done for OMPG. If the goods are incorporated into the goods of a third party by the customer OMPG becomes co-proprietor of the newly created goods in the proportion of the value of the reserved goods to the other goods also incorporated. The goods thus created shall also be deemed to be reserved goods of OMPG. If he has fulfilled his payment obligation towards OMPG, the customer is entitled to resell the reserved goods – only subject to retention of title.

Other disposals, in particular pledging or security transfer of title of the reserved goods are undue. In case of access to the reserved goods by third parties the customer is obliged to point out the property of OMPG and to inform OMPG immediately. By ways of security, the customer already now assigns all the claims and ancillary rights he is entitled to as a result of the resale of the reserved goods and the business connexion to his purchasers arisen from the resale of the reserved goods.

The customer is entitled and obliged to retract the assigned claims and to immediately pay them to OMPG.

If the customer defaults OMPG is entitled at any time to withdraw the direct debit authorisation and to inform the customer's purchasers about the assignment as well as to take back the reserved goods or, as the case may be, to demand the assignment of the claim for return of the customer to third parties. The customer is obliged to provide OMPG with the details necessary to collect the claims and to hand over the corresponding documents. Taking back or distraining the reserved goods does not imply a cancellation of the contract. OMPG will release the securities on the customer's request insofar as their value exceeds all the claims to be secured by more than 20%.

IV. Terms of Services and Deliverables

1. Prices

The price for every order or project is agreed on the basis on the product and service specification of OMPG effectual at the time. Quotations of prices are based on the estimated scope of services necessary and are thus without obligation. Price increases are subject to increased costs for personnel and material. Fixed-price agreements are exempted.

2. Supplementary Performance

OMPG render their services in accordance with the state of the art generally acknowledged at the time the order is placed and with the care customary in the trade. OMPG fulfils their liable if there is a defect as to quality by the free-of-charge repetition – if technically possible -, in case of technical products by choosing either rectification of deficiencies or re-manufacturing.

The customer is entitled to abatement or to cancel the contract only if the rectification of deficiencies fails or is not possible for other reasons. The claim for supplementary performance has to be asserted in writing by the customer immediately.

The customer allows OMPG the time and opportunity necessary according to equitable discretion for supplementary performance. If the customer denies this OMPG is exempt from supplementary performance.

3. Protection of The Work Result

OMPG keeps the copyright for the services rendered – as far as they are eligible for this. The customer is allowed to use the test reports created within the order with all their tables, calculations and other details only for the purpose determined by agreement.

4. Nondisclosure

OMPG commit themselves to provide the customer with all the results acquired within the placing of the order. Information received or gained which has not been known to or has not been accessible by the general public shall be treated confidentially.

5. Delivery and Safekeeping of Samples

The customer bears the costs and the risk of delivering samples unless pickup has been agreed. In case of dispatch by the customer the material to be examined must be packed properly and under consideration of potential instructions given by OMPG.

The customer is liable for all the damages attributed to a hazardous nature of the material of the sample(s). The customer is obliged to disclose all the hazard warnings and handling instructions known to him.

Unless otherwise agreed on in the order the samples are stored as long as their nature permits an evaluation according to the state of the art, but no longer than the expiry of the periods stated hereinafter.

Lodged second samples are properly stored until the expiry of the official sealing, but no longer than the postal dispatch of the of the test report. All the other samples, their nature permitting, are stored for a maximum period of twelve months. The samples are returned only on request by and at the cost of the customer.

V. Final Provisions

1. Data Processing

In compliance with the Data Protection Act OMPG is entitled to store and process personal and economic data of the customer regardless whether these data come from the customer or third parties.

2. General Provisions

Assignments of contractual rights and obligations of the customer require the agreement of OMPG. Claims by OMPG can be offset or lien can be exercised only if and when the counterclaim of the customer is undisputed or legally binding.

Unless the parties have expressly agreed otherwise, the Head Office of OMPG is the place of fulfilment. The exclusive place of jurisdiction for both parties is Rudolstadt, if the customer is a merchant who has been entered as such in the commercial register, a public legal body or special public-law funds. The privity of contract between OMPG and the customer is subject to the law of the Federal Republic of Germany.

Should any individual provisions in these General Terms and Conditions be invalid, either in part or in full, this will not affect the validity of the other provisions.

State of July 2002