

GENERAL TERMS AND CONDITIONS OF SALE OF MIKO PAC NV

1. General

These general terms and conditions of sale are only a written confirmation of what was agreed when the agreement was made. Any clauses providing otherwise appearing on, among others, the buyer's order forms are considered as null and void, unless they are expressly accepted by the seller. To the extent that they are accepted, these general conditions apply at least in a supplementary fashion.

2. Deliveries

The goods sold are delivered EX WORKS unless expressly agreed otherwise. If the seller undertakes to arrange transport, this is done without obligation and at the risk and expense of the buyer. In such case, the seller acts as an authorized agent for and on behalf of the buyer.

3. Delivery dates

The seller will employ his best endeavours to deliver in a timely manner. A delay in delivery does not give rise to a right to compensation for the buyer if the delay is limited to one-third of the delivery period. In case the delivery date is exceeded by more than one-third of the delivery period, the buyer is entitled to liquidated damages equal to 10% of the value of the order, unless the delay is due to force majeure as defined in article 9. The seller always has the right to deliver provisional replacement goods, in which case no right to compensation arises for the buyer. A delay in delivery never entitles the buyer to cancel the order. The seller reserves the right to suspend the fulfilment of an order if there is an overdue balance on the buyer's account with the seller, or if the buyer appears to be in financial difficulties or insolvent. If the buyer refuses to accept the delivery, or if the fulfilment of the order is suspended by the seller pursuant to the preceding section, storage costs can be invoiced to the buyer, notwithstanding the right of the seller to cancel the agreement.

4. Prices

In the event of an increase in any relevant costs (e.g. tax rates, social charges, prices of raw materials, energy costs, exchange rates) in the period between the order and the delivery, prices may be revised upwards, up to a maximum of 2%.

5. Moulds

The seller will treat moulds that are the property of the buyer or which were developed for the purchaser with all due care and attention. The seller will have the right, according to the circumstances, either to reserve title, or to exercise a right of retention over these moulds, in case the buyer doesn't fully respect its contractual obligations. After the end of the collaboration between the parties, the buyer will be able to collect the moulds at his own risk and expenses. If the buyer fails to do so within a period of three years, the seller will be entitled automatically to dispose of them, destroy them or use them for any purpose of his choosing. In that case, the buyer will be deemed to have transferred all intellectual property rights associated with the moulds to the seller.

6. Tolerances

The following tolerances must be accepted, either more or less, in the quantity delivered: up to 5,000 units - 50%, from 5,001 to 10,000 units - 20%, from 10,001 to 50,000 units - 15%, more than 50,000 units - 10%. These quantities apply per model. The descriptions, drawings, weight and dimensions of the products are approximate. The buyer must accept the usual tolerances. Due to the highly automated production, the buyer must accept a maximum of 1% of substandard units.

7. Conclusion of the agreement

The seller is only bound by its written confirmation of the order placed by the buyer.

8. Protest

The buyer will inspect every order on delivery. Any complaints of defects or non-conformity must be notified to the seller, within 8 days after the delivery (in case of visible defects), or within 8 days after the discovery or after the moment in which they could reasonably have been discovered, and in any case within 6 months after the delivery (in case of hidden defects), in a motivated manner, or they will be deemed to have lapsed. Any protest about the way the invoice is written or the price calculation must be notified to the seller within 8 days of the date of issue of invoice. Protests after the aforementioned periods expire will be considered as late. The notification of any complaint does not entitle the buyer to postpone or suspend payment of the price, not even in part, or to cancel the entire order.

9. Liability - Force majeure

Except if and insofar a binding law excludes a limitation of liability, the seller's liability is limited to the risks and the coverage limits included in its professional liability insurance. The seller does not warrant the quality of his products in case of abnormal use. The seller is not liable in case of force majeure. Force majeure includes, among others, war, rebellion, acts of government, fire, explosion, storm, flooding and other natural disasters, strike and lock-out, also at the seller's suppliers or transporters, as well as any demonstrable fault or negligence by suppliers or subcontractors of the seller or of a third party, which the seller could not reasonably have foreseen at the time the agreement was entered into.

10. Price - Payment

The purchase is entered into at the prices stated on the order confirmation. All prices exclude VAT and other costs (transport, packing, insurance, import and export duties, etc.). All payments must be made in cash in euro at the registered office of the seller, unless expressly stipulated otherwise. The buyer must accept unreservedly partial deliveries and partial invoicing of large orders. The seller can require the buyer to put up guarantees at any time. These guarantees are a condition precedent for the creation or the performance of the contract. In the event of non-payment by the due date, the purchaser will be charged, as of right and without notice, liquidated damages, at the rate of 10% of the invoice amount with a minimum of 100 euro, as well as interest on overdue payment at the rate of 10%. Furthermore, any invoices not yet due will be rendered exigible. All payments will first be offset against interests, liquidated damages and any legal costs, and thereafter as payment against the longest overdue invoices. If the buyer does not comply with the payment terms or any other obligations, the seller has the right to suspend or postpone the performance of its contractual obligations, even those pursuant to other ongoing agreements between the parties.

11. Term

If the contract is entered into for an unspecified term, the parties will observe a notice period of three months. If the contract is entered into for a specified term, then it will be deemed to be extended for the same period of time in the absence of notice, to be given by registered letter at the latest three months before the end of the current term. After the expiry of the agreement, the seller has a preferential right, under the terms offered by the best bidder, with a view to the renewal thereof. This preferential right also exists in the event of a modification or extension of the goods used by the buyer, or in the event of a territorial expansion of the buyer's activities.

12. Retention of title

1. As a security for all claims the seller has due to present and future business relations with the buyer or any other member of the buyer's group of companies, title to the delivered goods remains with the seller until full payment of all due amounts.
2. The buyer expressly agrees to communicate to the seller at the seller's first request where the goods are located and ensures that the goods are made available to the seller at the buyer's costs and risks. Insofar as necessary, the seller is given an irrevocable mandate to repossess the goods as well as the right to enter the buyer's premises as required.

3. Until payment of all present and future claims of the seller by the buyer, including those resulting from the settlement of a current account, the delivered goods remain the property of the seller. In case of breach of contract by the buyer, e.g. default of payment, the seller has the right to repossess the goods within a reasonable period of time, as stipulated in the preceding paragraph. If the seller repossesses the goods, this constitutes termination of the contract. If the seller seizes the goods, this constitutes termination of the contract. The seller is entitled to convert the goods into cash after repossession. The proceeds are set-off to the amounts the buyer is due to the seller, after deduction of a reasonable amount for the conversion costs.

4. The buyer has the right to use or re-sell the goods in the normal course of business, as long as he is not in default. Pledging or fiduciary assigning the goods is not allowed. As a security (including for claims resulting from the settlement of a current account), the buyer assigns to the seller in full, all claims resulting from the resale of the goods or from any other legal grounds connected to the goods (insurance, wrongful act). The seller mandates the buyer to collect the assigned claims in his own name but for the seller's account. This mandate can always be revoked if the buyer does not fulfil his payment obligations.

5. If any claim on the goods is made by a third party, in particular in case of seizure or confiscation, the buyer will inform the third party of the seller's ownership of the goods, and will notify the seller immediately, in order to enable the seller to assert his ownership rights. Insofar the third party is unable to reimburse the seller for the legal or extralegal costs connected to this, the buyer is liable to the seller for such costs.

6. The seller will release his securities, if and to the extent that the realisable worth of the securities exceeds the sum of the secured claims by more than 10%, in which case the seller can choose the securities to be released.

13. Applicable law - Competent court

This agreement is governed by Belgian law. In the event of dispute, the courts of Turnhout will have exclusive jurisdiction. However, the seller is entitled to issue summons to appear before the court of the place of residence of the buyer.

14. Language

Translations of these terms and conditions of sale are provided for informational purposes only. The original version in the Dutch language is the only authoritative version.

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