

GENERAL CONDITIONS OF SALES

Throughout these present Conditions of Sales, COGEBI ASIA SDN BHD, shall be referred to as the seller. Unless stipulated to the contrary in writing, all offers, quotations and contracts of sales of the seller shall be subject to the provisions of these general conditions of sales.

A. BASIS OF CONTRACT

1. No contract shall be deemed valid until its terms have been agreed in writing by the seller.
2. Any undertaking entered into by engineers, agents or representatives of the seller shall not be binding upon the later until he has issued written confirmation or rectification thereof.

B. PRICE

1. Price covers products unpacked ex-works and ex-store of seller.
2. Costs involved in packing, transport, insurance, customs fee, handling, delivery to site, shall be charged, unless exceptions are agreed by the seller.
3. Invoiced packing materials will be taken back at invoiced value if the same are returned complete and in good state, carriage paid, within a period of 15 days, to the seller's dispatch point.
4. If, after the signature of the contract between seller and buyer, there are any increases in wages or raw materials, the seller shall be authorized to adapt his prices consequent upon such increases.

C. QUANTITY

Where the goods to be supplied by the seller are not normally held in stock, the seller shall deliver the quantity of merchandise manufactured, and such quantity may be slightly over or under the quantity requested.

D. DELIVERY RATES

1. Delivery period commences as from the date when the written order is in the hands of the seller, as well as all information necessary for the execution of the order, and any payment on account which may be scheduled with the order.
2. As regards, tooling, periods quoted shall always be dated from the date of approval, of plans submitted to the client. As regards, moulded items, period shall commence from the date of approval of model-type submitted to the client.
3. Seller declines any responsibility which may arise under the head of any delays which may occur in delivery and shall not accept any penalties due to delays. However, in cases where the seller shall have expressly accepted in writing derogations to the above principle the following shall apply:
 - a. His responsibility in the event of delay shall not be engaged unless the buyer prove that he has, due to such fact, suffered actual direct damage and this shall be limited to an indemnity exclusive of any other, this to be decided and worked out by mutual agreement between buyer and seller; the total of indemnities due under such head may not exceed 5% of the value of the goods subject to the delay, nor the total of the direct and actual damage which must be properly proved by the buyer.
 - b. The buyer may not lay claim to any indemnity if:
 - the delay is not describable to the seller, and in particular in cases of force major: strike, lock-out, stoppage of workshops, fire, interruption or accident in transport services, delays in the deliveries of raw materials, etc, both as regards, the seller and his principal suppliers;
 - payment conditions have not been scrupulously observed.
4. Under no circumstances may the buyer ever invoke any delay in delivery as being an argument to terminate the contract.
5. In cases where, within a period of 8 days dating from the date of notification of availability of the merchandise the buyer does not take delivery of the same, he shall pay a storage indemnity which shall be calculated at the rate of 0.25% of the value of the goods, per week, until such time as the goods actually leave the seller's premises.

Such storage shall be effected at the risk of the buyer and may not, under any circumstances, be taken by the latter as a reason for altering any of the payment conditions laid down. Independently of such payment of the storage indemnity, the seller may issue an official notice to the buyer demanding that he take delivery of the goods; if the buyer does not comply with such demand within the time limit set by the seller the latter shall be entitled subject to the dispatch of a registered letter and without instituting proceedings of law, to break the contract, without prejudice to any claim for damages which he may subsequently institute.

E. PAYMENTS

1. Payments shall be due and payable under the conditions laid down by the seller.
2. The advance payment(s) made by the buyer shall count towards payment for the order and do not constitute deposits whose abandonment may be deemed to authorize the buyer to break the contract.
3. In the event of non-payments on the due dates, the sums due shall bear interest at a rate which shall always be higher by 2% than the rate payable on overdrafts at this time as applied by the principle banks. In the country of the seller and the minimum rate shall be 6% per annum and without the provisions of this clause being deemed such as to be prejudicial to any demand for immediate settlement of the debt.
No refusal to pay shall be accepted in the event of litigation initiated by the buyer. Furthermore, the seller may, subject to the dispatch of a registered letter to that effect, impose upon the buyer a time limit upon the expiry of which the contract shall be annulled and this without prejudice to any claim for damages which he may subsequently institute.

F. DELIVERY AND TRANSFER OF RISK

1. Irrespective of the destination of the goods or the conditions of sale, delivery shall be deemed effected at the works or stores of the buyer.
2. As soon as the goods are ready or particularized in the seller's workshops, it is understood that they are subject to buyer's risk, and in particular, to any risk inherent in their transport, even in the case of carriage paid. The seller would upon receipt of written request by the buyer and for the latter's account, take out insurance covering any of the risks the buyer may designate.

G. ACCEPTANCE

Goods are deemed accepted in the works of the seller.

H. GUARANTEE

Unless otherwise stated to the contrary and so far as the storage conditions allow it, the seller guarantees his products for a period of six months against all defects in material or manufacture. It is understood that such guarantee is limited to the free of charge replacement, at the seller's works, or reimbursement, of the goods acknowledged by the seller as defective. No other claim incurring the seller's liability shall be entertained.

I. TOOLING AND EQUIPMENT

All tooling and/or specific impressions/prints which may be the property of the buyer may be employed in respect of the orders for the latter. These shall remain in the stores of the seller where maintenance shall be ensured free of charge during a period of five years dating from the execution of the last order. After the expiry of such period, these may be destroyed, but only after written notification there of has been sent to the buyer.

This provision shall under no circumstances be deemed to constitute an obligation on the part of the seller to accept any new orders from the buyer during the period of five years stated. The seller reserves the right, unless instructions to the contrary are received from the buyer, to engrave the toolings/equipment in such manner that the moulded items bear the trade mark of the seller.

J. RESPONSIBILITY

All moulded items are executed at the risk of the buyer, who alone assumes sole responsibility in respect of any infringements of trade of other marks of license or patents.

K. RIGHTS OF OWNERSHIP

1. Goods shall remain the property of the seller until the buyer has discharged all his obligations towards the former. Until such time as the buyer has fulfilled all his obligations the seizure or distraint of any goods of the seller is forbidden.
2. Resale of the goods by any retailer may be authorized to take place under normal trading or commercial conditions, but it is essential that the retailer from his buyer payment in cash form. All costs which may arise from such operations shall be for the account of the buyer.
3. The retailer shall be obliged to inform the seller at the latter's request whether or not has been transmitted the good to third parties and shall also be obliged to communicate to the latter all relevant information to ensure the safeguarding of his rights.

L. LEGAL PROVISIONS AND JURISDICTION

1. The seller shall not be obliged to accept any contractual obligations to the reassignment of the contract to third parties by the buyer. Such operation may only be effected subsequent to mutual agreement between seller and buyer.
2. The provisions of this contract shall remain in force and the contract remain valid even if certain of the clauses or points therein under the head of seller's conditions shall not be acknowledged as having legal force.
3. In the event of disputes arising, irrespective of the nature thereof, and irrespective of the actual place of the supply, only the Court of Brussels and Halle, as the seller may elect, shall be competent to effect a settlement.
4. The general sales conditions deposited at the Courts of the Commerce in Brussels and Halle are the only legally valid.