



GENERAL TERMS AND CONDITIONS OF SALE AND DELIVERY

of

IGS Aerosols GmbH

1. Validity, subject matter of contract, communication

1. These present terms of sale and delivery regulate the cooperation between IGS Aerosols GmbH (hereinafter also referred to as IGS) and the customer. The terms of sale and delivery form an integral part of all contracts that IGS concludes with the customer on the delivery or services offered. They shall also apply to all future deliveries or services, even if these are not separately agreed. Regulations other than these terms and conditions of sale and delivery shall not apply, even if IGS does not expressly disagree to the application thereof in individual cases. In the case of IGS referring to correspondence containing the terms and conditions of the customer or a third party, or otherwise draws attention thereto, this shall not constitute as agreement to the validity of those terms. Other declarations or actions in connection with a contractual relationship shall in no case constitute acknowledgment of the deviating terms and conditions. The general terms and conditions of sale and delivery of IGS shall therefore also apply if a delivery is carried out without reservation upon knowledge of supplementary terms or conditions which contradict the general terms and conditions of sale and delivery of IGS. They are also valid as a framework agreement for future contracts with the same customer in their respective version, without IGS having to refer to them in each individual case.
2. For the legal relationship between the customer and IGS, only the conditions and specifications expressly specified in the respective individual contract and the additional following conditions shall apply.
3. Insofar as the present terms and conditions of sale and delivery refer to written form, text form (email, fax) is also valid. This shall not apply where a legal requirement for the written form exists or "written form in accordance with Section 126 of the German Civil Code (BGB)" is referenced.

2. Offers, contract conclusion, scope of services

1. Offers made by IGS are non-binding, unless expressly stated otherwise. This also applies if the customer is provided with catalogs, technical documentation (e.g. drawings, plans, evaluations, calculations, references to DIN standards), other product descriptions or documents – also in electronic form.
2. The documents pertaining to the offer, such as technical specifications and solutions, illustrations, drawings, weights and measurements, quality indications, percentage content, mixture ratios or other performance data shall be regarded as approximate averages and only binding if expressly agreed in writing.
3. The customer's order is considered a binding contract offer. Unless otherwise stated in the order, IGS reserves the right to accept this offer within 2 weeks of receipt.
4. IGS's acceptance of the contractual offer may be declared either in writing (e.g. by order confirmation, by fax or email), or by delivery of the goods to the customer. Deviations and additions to the original order, as well as collateral agreements, shall only become part of the contract if they are confirmed in writing by IGS. This also applies to the assurance of product properties. For the contract content and scope of services, including the agreed specifications of the delivery item, the order confirmation by IGS is definitive.
5. If the contract has not previously been concluded, the provision of a down payment by the customer shall be deemed to be acceptance of the last contract offer by IGS at the latest.
6. IGS assumes no procurement risk. In the event of improper and / or late delivery by suppliers, IGS reserves the right to withdraw from the contract. This only applies if IGS is not responsible for the non-delivery. This applies in particular, if IGS has concluded a congruent hedging transaction. The same shall apply if neither IGS nor its subcontractor is at fault, or if the procurement risk does not lie with IGS due to the nature of the contract or an explicit agreement (e.g. inventory or unit debt). The customer shall be informed immediately of unavailability of the service. If a mutually agreed adjustment to the contract is not possible, a withdrawal must be declared immediately. In the case of withdrawal, the return service shall be reimbursed.
7. In the case of partial or complete omission of the sources of supply, IGS is not obligated to stock up on third party suppliers. In this case, IGS reserves the right to distribute the available quantities of goods, taking into account its own needs, if this is not unreasonable for the customer.
8. The right to changes and deviations from illustrations, samples, etc. is reserved, insofar as this corresponds to technical progress, practicability or modern concerns and is reasonable for the customer.
9. Partial deliveries are permitted, unless they are unreasonable for the customer.

3. Delivery, deadlines, shipping

1. The delivery date shall be agreed individually in writing or specified by IGS upon acceptance of the order. It is only binding with express written confirmation by IGS. Fixed transactions must be expressly specified as such by the customer and must be expressly confirmed as such by IGS in writing.
2. If the delivery is not agreed as a date, but as a period (weeks, months, etc.), it shall be calculated from dispatch of the order confirmation, but not before the customer has procured the documents, permits, releases, etc. as well as a receipt of deposit payment to IGS, if one has been agreed upon.
3. The delivery date is deemed to have been met if the delivery item has left the IGS factory in Wehr/Baden or IGS has given notification of readiness for dispatch by the deadline and the dispatch, in this case by IGS, takes place without delay. If an acceptance is agreed at the IGS factory in Wehr/Baden, the delivery period is deemed to have been met upon the notification of readiness for dispatch/acceptance.
4. The delivery period shall be extended appropriately in the case of force majeure or other events unforeseeable upon conclusion of the contract (e.g. all types of malfunctions, difficulties in obtaining materials or energy, transport delays, strikes, legitimate lockouts, lack of manpower, energy or raw materials, embargoes, export or import restrictions, difficulties obtaining necessary regulatory approvals, regulatory action or the lack thereof, incorrect or untimely delivery by suppliers), which IGS is not responsible for, insofar as such obstacles have a significant influence on the completion or delivery of the delivery item. The same applies to such circumstances encountered by subcontractors. Should there be any hindrances of a temporary nature, delivery or service deadlines may be extended, or the delivery or service dates may be postponed by the period of delay, plus a reasonable start-up period.

5. Force majeure in the above sense shall also apply to circumstances in which a required reference to processed materials or active ingredients/auxiliary materials of a particular supplier that must objectively be observed, either as specified by the customer or otherwise, (e.g. drug testing, etc.), is entirely not possible, or not possible in a timely or proper manner, through no fault of IGS. The same applies if, for reasons beyond IGS's control, the procurement, production, delivery or transport is prohibited by the authorities or judicially (e.g. due to the prohibitions of certain active ingredients, propellants, etc.).
6. Within the meaning of paragraphs 4 and 5, IGS is also not responsible for obstacles that arise during an already existing delay. Section 287 clause 2 BGB is waived. IGS shall promptly notify the customer of the beginning and end of such obstacles in important cases.
7. The occurrence of any delay in delivery shall be determined by statutory provisions, for which the customer is required to provide a reminder under any circumstances.
8. If the shipment is delayed at the request of the customer, it shall be invoiced for at least 0.5% of the total value each month after the item has been prepared for shipment. The right to demonstrate higher demands or further damage and the statutory rights of IGS (in particular for compensation for additional expenditure, reasonable damages, contract termination) shall remain unaffected; the flat rate shall, however, be included in any further monetary claims. The customer has the right to provide evidence that IGS has not incurred any damage, or considerably lower damage than the above flat rate.
9. The term of the delivery period is under any circumstances inhibited, insofar as the customer does not completely fulfill its contractual obligations, which include, inter alia, the timely provision of sample material (e.g. test components and material samples). In such cases, after setting a reasonable deadline, IGS reserves the right to extend the delivery period beyond the suspension period by an appropriate recovery period.

4. Assumption of risk

1. The assumption of risk shall be carried out in accordance with the INCOTERM agreed between IGS and the customer, in default of the deviating agreement FCA Wehr/Baden (Incoterms 2010).
2. The handover shall be deemed to have taken place, if the customer is in default of acceptance.
3. With the express written consent of the customer, IGS shall take out transport insurance at its expense.

5. Retention of title

1. IGS shall retain ownership of the delivery item until receipt of all payments resulting from the business relationship with the customer. The withdrawal or enforcement of the retention of titles does not require termination by IGS. These actions or the seizure of the delivery item by IGS do not constitute withdrawal from the contract, unless IGS has expressly stated otherwise in writing. IGS reserves the right to recycle the delivery item after it has been seized. The realization proceeds shall be credited against the liabilities of the customer - less any reasonable exploitation costs. Filing for commencement of insolvency proceedings on the part of the customer shall entitle IGS to withdraw from the contract and demand immediate return of the delivery item.
2. The customer is obliged to treat the delivery item with care and adequately insure it against damages for the duration of the retention of title. The customer shall transfer any claims against the insurance to IGS. Should maintenance and inspection work be required, the customer is obliged to perform this regularly at its own expense.
3. The customer may not pledge, sell or assign as security the delivery item prior to the transfer of ownership. In the case of seizure or confiscation or other order by a third party, the customer must indicate the property of IGS and inform IGS immediately, as well as hand over all data corresponding to this process to IGS.
4. The customer reserves the right to resell the delivery item in the ordinary course of business; however, it hereby assigns to IGS all claims totaling the final invoice amount (including sales tax) which it accrues from the resale to its customers or third parties, irrespective of whether the object of sale has been resold without or after processing. The customer shall remain authorized to collect these claims even after the transfer; IGS's right to collect the claim remains unaffected. However, IGS shall not collect the claim as long as the customer meets its payment obligations from the proceeds received, is not in default of payment and, in particular, no petition has been filed to open insolvency proceedings or to suspend payments. Should the obligation of non-recovery not apply, IGS may demand that the customer disclose to it the assigned claims and its debtors, provide all information necessary for collection, hand over the relevant documents and notify the debtors of the transfer.
5. The processing or transformation of the delivery item by the customer shall always be carried out on behalf of IGS. Should the delivery item be processed with other items not belonging to IGS, IGS shall acquire co-ownership of the new item of the value of the delivery item in proportion to the other processed items at the time of processing. The same shall apply to the object resulting from the processing as for the item delivered under reservation.
6. Should the delivery item be inseparably mixed or combined with other items not belonging to IGS, IGS shall acquire co-ownership of the new item in proportion of the value of the delivery item to the other mixed or combined items at the time of mixing or combination.
7. If mixing or combination is carried out in such a way that the customer's item is to be considered the principle item, it shall be deemed agreed that the customer shall transfer proportionate co-ownership of the principle item to IGS. The customer shall keep the resulting sole or co-ownership for IGS free of charge.
8. IGS is obliged to release the securities to which it is entitled at the request of the customer, to the extent that the feasible value of its securities exceeds the claims to be secured by more than 20%; IGS is responsible for the selection of securities to be released.
9. If the retention of title agreed above is not provided for by the law of the country in which the delivery item is located or in which it is delivered before full payment, or only if certain conditions are met (e.g. registration in official or judicial registers, agreement in written form, etc.), the customer is obliged to inform IGS at the latest when concluding the contract. Should this law not allow retention of title or extended retention of title and allows IGS to reserve other rights that serve the purpose of this security in a manner similar to the retention of title, IGS hereby declares that it shall exercise such rights. The customer is obliged to cooperate with the required measures (in particular, compliance with formal requirements, etc.).

6. Liability for defects

1. The customer is obligated to inspect the delivery item carefully upon receipt for completeness and correctness. The notice period within the meaning of Section 377 paragraph 1 and paragraph 2 HGB is 5 working days; the decisive factor is IGS's receipt of a written complaint.
2. Should the customer intend to assert claims for defects in the delivery item, it must hand over or send the delivery item for which it is complaining to IGS for review, unless this is technically impossible or unreasonable. In the event of justified and timely notice of defects, IGS shall rectify these defects at its discretion by repairing the defect or delivering an item free from defects. In doing so, IGS shall bear the costs of repair, including

necessary transport, travel, labor and material costs. Should the costs of rectifying the defect increase due to the delivery item being moved by the customer to a place other than the place of delivery, the additional costs shall be borne by the customer. The same shall apply to costs for transport routes, packaging or shipment methods unforeseeable to IGS (in particular air freight) deviating from normal situations. Parts replaced by exchange shall become the property of IGS.

3. IGS is entitled to make the owed rectification conditional on the payment of the purchase price by the customer. However, the customer is entitled to retain a portion of the purchase price relative to the defect.
4. IGS is entitled to refuse rectification in accordance with statutory provisions. In the case of refusal of rectification, or the failure or unreasonableness thereof for the customer, it shall be entitled to withdraw or reduce (decrease) the purchase price in accordance with the provisions of Section 5 below.
5. The customer is only entitled to withdraw from the contract - as far as this is not prohibited by law - or to reduce the purchase price after unsuccessful expiry of a reasonable deadline set by it for rectification, unless the deadline is unnecessary according to statutory provisions. There shall, however, be no right to withdraw if the defect is negligible. In the case of withdrawal, the customer shall be liable for deterioration, demise and unused benefits not only for customary care, but for any negligent and intentional fault.
6. The provisions of Section 7 apply to any claims for damages and reimbursement of the customer's expenses.
7. IGS shall not be liable for defects if the customer has not followed the operating or maintenance instructions, has altered the delivery item, replaced parts or used consumables that do not meet the original specifications, the goods have been improperly or negligently stored or maintained, or unfavorable environmental conditions (in particular chemical, electrochemical or electrical influences, ambient temperatures, etc.) prevail, unless the customer proves that the defect is not a result thereof.
8. Liability is excluded for defects in the delivery item or parts thereof, which are caused by usual wear and tear.
9. Should the active ingredient(s)/auxiliary materials(s) or propellant be provided by the customer or be produced by IGS according to the customer's instructions or formulas, IGS assumes no liability for its durability. In this case, IGS shall also assume no liability for any effects of the active ingredients/auxiliary materials or the propellant on cans and valves. A review of compatibility of the product intended for filling with the aerosol propellants, cans and valves shall only be carried out with express written agreement and at the expense of the customer. The result of this investigation may not reveal results for the durability of the active ingredients supplied thereafter. In this case, it is the responsibility of the customer to request a further review.
10. In cases of the above Section 9, the customer is obliged to comply with all legal regulations to which the product is subject and which provide appropriate information for the consumer. Should the cans and other products be printed with text provided by the customer, the customer alone shall be responsible for the correctness and completeness of this content. In this regard, IGS shall assume no responsibility, unless the defect would have obviously imposed on the circumstances and IGS would not have advised the customer thereof.
11. For circumstances in which a reference from IGS on processed materials or active ingredients/auxiliary materials in the case of a given supplier is required due to reasons given by the customer or other objective reasons (e.g. drug approval, etc.), IGS shall not be liable for defects in the final product, with regard to the deficiency of these materials or active ingredients/auxiliary materials. This shall not apply if the defectiveness of the materials or active ingredients/auxiliary materials prior to their processing, with consideration of commercial investigation obligations, should have been clearly imposed and IGS had not advised the customer thereof.
12. The customer shall grant IGS the necessary time to perform rectifications. Should IGS be denied this opportunity, IGS shall not be liable for the consequences. In principle, the customer may make any rectifications through third parties, only with the prior consent of IGS. In urgent cases, e.g. the safety of operations is at risk, or to avoid disproportionate damage, the customer has the right to rectify the defect itself and demand compensation for the objectively required expenses. IGS is to be informed of such activities as soon as possible, if possible prior to any rectification. The right of the customer to rectify defects shall not exist if IGS would be entitled to refuse the relevant rectification in accordance with statutory regulations. Should the customer suffer a culpable co-causation, in particular due to a breach of its duty to mitigate damages, IGS may demand compensation for this.
13. Unless otherwise agreed between IGS and the customer, there is a warranty period of 24 months from the transfer of risk.

7. Compensation

Unless otherwise stated in these terms and conditions of sale, IGS is solely liable as follows:

1. IGS shall be liable in accordance with the statutory provisions, insofar as the customer asserts claims for damages or reimbursement of expenses (hereinafter: claims for damages) based on intent or gross negligence (including intent or gross negligence on the part of the representatives or vicarious agents of IGS), if IGS culpably breaches a material contractual obligation (an obligation of fulfillment of which makes the proper performance of the contract possible initially and on whose compliance the client regularly trusts and may trust), as well as in cases of injury to life, limb or health.
2. Compensation for breach of a material contractual obligation is limited to foreseeable, typically occurring damages.
3. Any other liability for damages is excluded, regardless of the legal nature of the asserted claim. In this respect, IGS shall not be liable in particular for damages that did not occur on the delivery item itself.
4. The above limitations of liability shall not apply if IGS has fraudulently concealed a defect or has assumed an independent guarantee for the quality of the goods. The mandatory provisions of the Product Liability Act remain unaffected.
5. Insofar as the liability of IGS is excluded or limited, this shall also apply to the personal liability of its employees, workers, staff, representatives and vicarious agents.

8. Prices, terms of payment

1. Unless otherwise stated in the order confirmation, the prices given by IGS are in EURO and are understood by FCA Wehr/Baden (Incoterms 2010) to include loading at the factory, but exclude freight, transfer, insurance, customs duties and excluding applicable statutory value added tax. Partial invoices shall be permitted for partial deliveries. For services within the EU, the customer must provide its VAT registration number in good time before invoicing.
2. IGS reserves the right to reasonably change the agreed price if, after conclusion of the contract, significant cost reductions or cost increases occur, in particular due to wage agreements or material price changes, energy price changes, etc.
3. Should there be a period of more than four months between contract conclusion and delivery, IGS shall be entitled to demand the price, which shall be charged to other customers at the time of delivery. This shall not apply if IGS is responsible for the period between contract conclusion and delivery.

4. In principle, IGS shall only accept continuous or subsequent orders at the price valid on the day of delivery.
5. Invoices shall be payable net immediately after receipt of invoice.
6. A payment shall be deemed to have been made once IGS can dispose of the amount. In case of checks, bills of exchange or similar, the payment shall be considered to have been made once the check has been cashed. The resulting costs and expenses shall be borne by the payer.
7. If a cash discount has been granted, this may only be deducted upon timely compliance with deadlines and absence of outstanding older invoices. Insofar as no deviating payment terms have been agreed, default of payment shall commence no later than 10 days after transfer of risk. The purchase price shall accrue interest at the applicable statutory default interest rate for the duration of the delay. IGS reserves the right to claim further damages.
8. Should the customer fail to meet its payment obligations despite a reminder and deadline, in particular if a check is dishonored, it ceases payments, or if after contract conclusion IGS becomes aware of facts about the financial circumstances of the customer which cause doubt about its credit, IGS shall also be entitled to the entire residual debt due, even if checks have been accepted. In this case, IGS may also request advance payments or security deposits. In these cases, the customer shall receive further deliveries only upon provision of cash in advance or cash on delivery.
9. The customer is only entitled to offset its rights if its counterclaims are undisputed, legally established or acknowledged by IGS. The assertion of a right of retention due to unrecognized or not legally established counterclaims is excluded, unless these claims are based on the same contractual relationship. Should a complaint be asserted, the customer may withhold its payments only to the extent that they are reasonably proportionate to the alleged defect. Section 320 para. 2 BGB remains unaffected.

9. Intellectual property rights, copyright, transfer of contract rights

1. Drafts, samples, design drawings manufacturing specifications, company data, tools, facilities, etc., which IGS has provided to the customer in the course of contract negotiations, for the submission of tenders of the execution of a contract, remain the exclusive property of IGS. These documents may not be used for other purposes, duplicated or made accessible to third parties and shall be kept safe with normal commercial prudence.
2. The customer is obligated to keep confidential all information accessible to it in connection with the business relationship or the respective individual contract, which is designated as confidential or recognizable as business or trade secret due to other circumstances, for an indefinite period of time and, not to record or exploit it in any way, unless for the purpose of the contract.
3. All property, copyright and other industrial property rights to work results, in particular to technical developments, including all documents, prototypes, design drawings, samples, illustrations are the exclusive property of IGS, even if they are created in the context of or are a result of contract implementation. These documents may not be used for any other purpose without prior written consent from IGS, in particular they may not be duplicated and/or made available to third parties.
4. Insofar as the work results, in particular development services, are remunerated by the customer, IGS grants the customer the unlimited right to use (with respect to time, territory and content) for its own purposes. Conversely, the customer is not entitled to transfer the work results, to grant sub-licenses or otherwise make them available for use by third parties.
5. Provided that IGS manufactures the delivery item according to the instructions or specifications from the customer, the customer shall ensure that third party rights do not conflict with the production and intended use of the delivery items, in particular that third party rights are not violated. Should IGS nevertheless be confronted with a claim for a possible infringement of third party rights, such as copyright, patent and other intellectual property rights, the customer hereby indemnifies IGS from this and from any related services, as well as all reasonable costs of legal defense.
6. The customer is not permitted to transfer its contract rights to third parties without the written consent of IGS.

10. Excess or short deliveries, unused materials, packaging

1. Due to production technology, it is not possible to comply with the exact quantities of the active substance and, if appropriate, the propellant, which are agreed in terms of quantity according to the contract. For economic reasons, IGS therefore reserves the right to excess or short delivery of up to a maximum of 10% of the ordered quantity.
2. The customer shall accept and pay the usual prices to IGS for materials ordered by IGS on behalf of or specifically for the customer, in particular lithographed cans, labels, cardboard boxes, raw materials, etc., that have not been used by the end of the contractual relationship. If and provided that the customer does not accept the materials, IGS shall additionally charge usual storage costs.
3. The customer shall accept as a "third party" in accordance with Section 11 of the Packaging Ordinance, the disposal of used packaging, in particular the transport packaging, and shall take the packaging to the appropriate disposal companies for re-use or recycling outside of public waste disposal in accordance with the provisions of the Packaging Ordinance. Insofar as reusable containers are used by IGS, the customer is obligated to empty them immediately after receipt, handle and store them with care and have them prepared for collection by a representative of IGS.

11. Governing law, jurisdiction, severability clause

1. The legal relationships between the supplier and customer shall be governed exclusively by substantive German law, including the UN Sales Convention, but excluding the provisions of conflict of laws.
2. The delivery items shall be designed, manufactured and delivered in accordance with the legal provisions applicable in the Federal Republic of Germany. Should the customer wish to take account of provisions that deviate from German regulations, it must notify this before ordering. It must also send the provisions deviating from German provisions in the German or English language. IGS reserves the right to appropriately adjust the price and delivery dates in case of such request.
3. Should the customer be a merchant in the sense of the German Commercial Code, a legal entity under public law or a special fund under public law, Wehr/Baden shall also be the place of jurisdiction for all disputes arising directly or indirectly from the contractual relationship. However, IGS is also entitled to bring forward an action in the customer's place of general jurisdiction.
4. A possible invalidity of individual contract terms does not affect the remaining terms of the contract. Invalid contractual provisions shall be replaced by such provisions that come closest to the economic sense and purpose of the invalid provision. The same shall apply to any loopholes in the contract.