

GENERAL TERMS OF SALE, DELIVERY AND PAYMENT OF SATO EUROPE GMBH (SP. Z O.O.) ODDZIAŁ W POLSCE /BRANCH IN POLAND/

I. General

1. The General Terms and Conditions of Sale, Delivery and Payment (hereinafter: GTC) set out below apply to all contracts concluded with customers who are entrepreneurs within the meaning of Article 431 of the Civil Code (so-called B2B contracts), including also contracts on advisory services and other additional services. To agreements concluded with entities from the public finance sector and other entities listed in Article 3 of the Public Procurement Law, to the extent that a given transaction is subject to the regime of the Public Procurement Act, these GTC apply in whole or in part, if the parties so agree. The application of general contractual terms and conditions (model contracts) applied by customers is excluded to the extent that they are contrary to these GTC. By placing an order the customer or a person authorized to act on his behalf certifies that he knows and accepts these GTC.
2. Any agreements, especially if they amend these terms and conditions, require our written confirmation in order to become effective. Any waiver of this requirement for the written form can only be made by us in writing.
3. We do not assume any guarantee or procurement risk for the deliveries that we owe. All obligations on our part are subject to the correct supply by our own suppliers. All our offer documents such as illustrations, drawings, weight and dimensional data are to be considered as approximations, unless we have expressly indicated in writing that they are binding.
4. Subject to Item I.5, all our documents, in particular our brochures, catalogues, price lists, cost estimates, illustrations, drawings and calculations shall remain our property. Without our written consent, these documents may not be reproduced or made available to third parties. In the event that the customer should violate this, we are entitled to demand a contractual penalty of 5% of the (net) value of the order, on the occasion of the performance of which the infringement occurred, which does not exclude the claim for further damages.
5. The customer must ensure that our product information (e.g. instructions for use, maintenance and care) is sent to the respective recipients (e.g. the end users). Upon written request, we shall provide the customer with the necessary documents - insofar as these have not already been supplied by us.
6. Any samples prepared at the request of the customer shall be charged separately. We are not under any obligation to accept returns.
7. No provision in these Terms and Conditions or in the activities carried out in connection with the transaction and performance of deliveries shall be construed as a transfer of copyright and/or other intellectual property rights to the customer or as granting the customer any rights (including licences) to the intellectual property and/or copyright. In particular, the customer does not acquire any rights to utility models, industrial designs, trademarks, drawings, sketches or other items covered by intellectual property rights. This provision may be excluded by contract or agreement of the parties concluded under pain of invalidity in writing.
8. An assignment of the customer's rights in connection with contracts concluded with us is only permissible if we have given our prior written consent.

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II. Prices, payments, collateral

1. Our prices are net prices (excluding VAT), in EURO ex stock including unloading at the warehouse, excluding packaging, which is charged separately and is not returnable.
2. Should there be any significant changes with regard to cost factors, in particular wages, cost of materials or freight costs, we may adjust the agreed upon prices to a reasonable extent in accordance with the influence exerted by the changed cost factors. If for reasons for which the customer is responsible, the delivery does not take place on the agreed date or within the agreed time and if more than 4 months have passed since the conclusion of the contract, we are entitled to charge our catalogue prices as applicable at that time.
3. The minimum order value is EUR 150.00; and EUR 75.00 for SATO Affiliate Partners. Should the order value be less than EUR 150.00, or EUR 75.00 in the case of Affiliate Partners, a minimum quantity surcharge of EUR 50.00 will be added.
4. Our claims are to be transferred without deduction within 14 days of the invoice date to one of the bank accounts provided.
5. In the event that the customer is in default of payment of all or part of the receivables due to us in respect of any obligation, we shall be entitled to make a declaration that any other claims against the customer that are not yet due, shall be immediately due and/or to demand collateral. The same right shall serve us in the event that the prerequisite referred to in article 491 § 1 of the Civil Code is met, i.e. the payment of the claim is doubtful due to the financial circumstances of the customer. In addition, in such cases we reserve the right to fulfil any outstanding deliveries only against advance payment or against the provision of securities. Should the customer refuse advance payments or the provision of securities, we are entitled to withdraw from the contract and to demand compensation for the resulting damages.
6. A delay in payment by the customer, irrespective of the other rights reserved to us in such cases by these GTC as well as the rights resulting from law, entitles us to charge the customer default interest in the amount indicated in Article 481 § 21 of the Civil Code (so-called maximum default interest) on the outstanding amount for each day of delay.
7. The customer is only entitled to a retention right and an authorisation to offset claims insofar as the counterclaims are undisputed or have been legally established.
8. We shall accept bills of exchange and cheques only upon written agreement and only on account of payment. The customer shall bear the discount charges and all other costs arising from the acceptance or encashment of the bill of exchange or the cheque. net prices (excluding VAT).

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III. Delivery time

1. A delivery time (delivery dates or delivery periods) that has been agreed upon is to be regarded as an approximate and is only valid if all details of the order are clarified in due time and if the customer fulfils all his obligations in a timely manner (in particular if a deposit that has been agreed upon is received in due time). Delivery periods shall be based on the date on which the order confirmation is sent. Delivery times shall be deemed to have been met if the delivery item leaves the warehouse within the respective delivery time or - in the event that the goods cannot be dispatched on time through no fault of our own - we notify the customer that the goods are ready for dispatch.
2. Should we be prevented from fulfilling our obligations on time for reasons beyond our control, the delivery time shall be extended by the duration of the impediment as well as a reasonable start-up time. Events that are beyond our control in the above sense shall include, apart from cases of force majeure, strikes and lockouts in particular as well as improper delivery by our own suppliers for which we are not at fault. In these cases we can withdraw from the contract in whole or in part with regard to the part that has not yet been fulfilled. In these cases, the customer shall be entitled to withdraw from the contract after a reasonable grace period which has been agreed upon in writing has expired to no avail, if the acceptance of the goods should become unreasonable for him as a result of the delay, however with the exclusion of the possibility to pursue claims for damages, in particular under Article 494 § 1 sentence 2 of the Civil Code.
3. In the event that we are in delay, the customer may withdraw from the contract after a reasonable grace period which he has set in writing has expired to no avail. If we have been granted a grace period, this shall be extended by the period of time during which we are prevented from rendering the service for reasons for which we are not responsible within the meaning of sentence 2 of Item 2 above.
4. In case of default of acceptance on the part of the customer, we are entitled to charge the costs incurred as a result of storage - at least, however, 0.5% of the invoice amount for each month of storage. The customer shall be granted the right to prove that we have not incurred any storage costs or that the storage costs incurred are significantly lower than the lump-sum. This shall not affect any of our further rights existing under the law (in particular as a result of default of acceptance). Furthermore, in such a case, we may set the customer an appropriate, additional period of time for acceptance, with the reservation that we will be entitled to withdraw from the contract if the set time limit expires ineffectively. If we withdraw from the contract in this way, we may demand compensation from the customer for damage resulting from the non-performance.

IV. Delivery, dispatch, transfer of risk

1. We are entitled to render partial deliveries.
2. The customer shall bear the costs for the dispatch of the goods. We are free to choose the dispatch route, the forwarding agent and carrier, the means of transportation and protection as well as the packaging of the goods. We do not guarantee that we will make use of the cheapest or fastest method of dispatch. The customer is solely responsible for insuring the goods during transport, and we shall not be liable in any way. We shall take out insurance against theft, damage caused by breakage, transport, fire and water as well as other insurable risks only at the express request and expense of the customer.

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3. Once the goods have been handed over to the carrier at the place of dispatch as specified in our order confirmation, the risk of the accidental loss or damage shall be transferred to the customer. This shall also apply where partial deliveries are made or where we have also assumed other services (e.g. dispatch, transport and/or assembly).

In the event that dispatch is delayed due to circumstances for which the customer is responsible, the risk shall be transferred to the customer from the day on which the goods are ready for dispatch. However, in such a case, we shall, at the customer's request and expense, take out the insurance policies that the customer desires.

4. Incoterms 2000 shall apply for the interpretation of the trade clauses.

V. Reservation of title

Delivered products shall remain our property until the customer pays the agreed price in full (indicated in the contract or order confirmation), as well as any other claims we may have arising from our business relationship with the customer. The customer shall not be entitled to pledge the products supplied, to transfer them as security or to dispose of them in any other way that may expose us to the loss of ownership. The customer hereby assigns all claims against third parties in connection with the resale of the supplied products and we hereby accept such assignment. The customer shall provide us with all information regarding the products supplied that remain our property and the claims assigned to us under the aforementioned assignment agreement. The customer shall immediately inform us of any seizures or claims by third parties against the supplied products together with the necessary documents. The customer shall also be obliged to inform the third party of the reservation of title of ownership for us. During the period of retention of title, the customer shall treat the supplied products with due care. In the event that the customer violates important obligations, including the payment of the sales price, we may, regardless of other rights to which we are entitled, take back the delivered products from the customer. The customer shall ensure that our representatives have immediate access to the products and leave them at their disposal.

VI. Warranty

1. We shall be liable to the customer if the goods in question has physical defects, whereby our liability under the warranty in respect of used goods is excluded in full, and any liability under the warranty that is more extensive than that specified in accordance with Items VI.2 to VI.8, to which the customer agrees.

2. The customer must examine the goods immediately after they have been delivered. Noticeable (obvious) defects must be reported in writing immediately thereafter, other defects must be reported in writing immediately after their occurrence. The customer shall not be entitled to any claims arising from defects that have not been properly reported or which were notified after the deadline.

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3. The customer must store the goods subject to a defect claim properly and afford us the opportunity to inspect the goods. The processing, restructuring, combining and resale of the goods subject to a defect claim must be discontinued or refrained from immediately. In addition, if we so request, which is admissible at any time, the customer shall immediately make available to us the goods subject to a defect claim or - at our discretion - samples thereof. The customer shall bear any costs arising from unjustified complaints. Should the customer violate the obligations of this clause, all warranty claims shall become invalid.
4. The prerequisite for the assertion of warranty claims is that the defective goods represent at least 5% of the total quantity of goods delivered in one delivery (order). Defects concerning a part of the delivery cannot lead to a complaint for the whole delivery. Our liability under Article 5611 of the Civil Code is excluded, i.e. we are not responsible for the disassembly and reassembly of the goods, and the customer performs these activities at his own expense and risk.
5. Where we are responsible for defective goods, we shall be entitled to choose whether to remedy the defect (rectification) or to supply the customer with an object free of defects (replacement delivery). Replaced parts shall become our property. We shall only be liable for transport costs to the extent that these have not been increased by the fact that the goods have been taken to a place other than the place of fulfilment.
6. After a reasonable grace period set by the customer in writing has expired to no avail, the customer may withdraw from the contract with regard to the defective goods or demand a reduction in the purchase price if a rectification or replacement delivery proves unsuccessful. The customer shall be entitled to the same rights even without setting a grace period if we seriously and definitively refuse rectification and a replacement delivery. In the event that the customer withdraws from the contract, makes a declaration on a reduction in price, or we rectify goods defects or deliver a new goods to the customer, the application of Article 566 of the Civil Code and the customer's claim for compensation for damage is excluded. If the customer, after fulfilling the conditions set out in the above provisions, makes a declaration of price reduction, the reduced price indicated by the customer in the declaration should remain in the same proportion to the contractual price as the value of the defective item remains to the value of the item without defect.
7. Warranty claims expire 1 year after delivery of the goods, at the latest 13 months after notification by us that the goods are ready for dispatch.
8. The customer is entitled to the statutory warranty rights without limitation if we have concealed the defect maliciously.
9. The above warranty conditions shall also apply accordingly to work performed by us with the proviso that the statute of limitations pursuant to Item VI.7 shall commence upon acceptance of the work by the customer.

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VII. Liability

1. Subject to the provisions outlined below, our liability for non-performance or improper performance of the contract, regardless of the liability regime, is limited to damages caused by intent or gross negligence. We shall not be liable for any damage caused to third parties by the goods after the risk of accidental loss or damage to the goods has passed to the customer. All our liability for lost profits is also excluded in full.
2. Liability on our part, whether contractual, extra-contractual or otherwise, is excluded, irrespective of the legal basis of the claim for compensation (in particular also on account of the breach of duties arising from a contractual or statutory obligation (in particular as a result of defects and due to delay), on account of impediments to performance existing at the time of conclusion of the contract, and on account of tort), insofar as our legal representatives, executive employees or simple vicarious agents cannot be accused of fault or can only be accused of carelessness or simple negligence.
3. The above limitations of liability shall not apply (i) to personal injury, (ii) to any producer's liability nor (iii) in the event of culpable breach of material obligations arising from the contractual relationship, insofar as this jeopardises the achievement of the purpose of the contract; in the case mentioned under (iii), however, our liability shall be limited to compensation for the normal consequence of the act or omission from which the damage resulted.
4. In the event that our product information, contrary to Item I.5., is not received by the respective recipients and damage is caused by our goods which could otherwise have been avoided if our product information had been observed, the customer shall indemnify us upon first request from all claims asserted against us in connection with such damage, regardless of the legal basis, or reimburse any compensation payments already made by us. Any further liability on the part of the customer remains unaffected by this.

VIII. Place of fulfilment, place of jurisdiction, applicable law, severability clause

1. The place of fulfilment shall be the location of our warehouse. All disputes arising from the agreements between the parties or related to them shall be subject to the Polish courts' jurisdiction and shall be settled by the court competent according to the seat of SATO Europe GmbH (sp. z o.o.) Oddział w Polsce /Branch in Poland/. However, we are also entitled to sue the customer at the courts of his general place of jurisdiction.
2. All legal relationships between us and the customer shall be exclusively governed by the laws of the Republic of Poland, in particular the Civil Code.
3. Should individual provisions of this contract be or become invalid, the remaining provisions shall remain binding. The invalid contractual provision shall be replaced by a provision which most closely approximates the economic objective pursued by the invalid provision.

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IX. Protection of personal data

1. Every data subject has the right to be informed about the principles of data processing and data protection and the control of data processing based on Article 13 of Regulation 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of individuals with regard to the processing of personal data and on the free movement of such data and repealing Directive 95/46/EC, hereinafter referred to as the General Data Protection Regulation (GDPR).
2. Your personal data is administered by SATO Europe Gesellschaft mit beschränkter Haftung, established in Heidelberg, 104 Waldhofer Strasse Street, 69123 Heidelberg (Germany); Handelregister B /commercial registry/ conducted by the District Court in Mannheim, No. HRB 716698, operating in Poland as part of the established branch of a foreign entrepreneur, i.e. SATO Europe GmbH (sp. z o.o.) Oddział w Polsce / Branch in Poland/, entered into the Register of Entrepreneurs of the National Court Register under number 579717; address of the company's branch in Poland: ul. Tyniecka 13, 52-407 Wrocław.
3. Your personal data will be processed for the purposes of commercial contracts, financial settlements and marketing activities.
We may transfer your data: to persons authorized by us - our employees and co-workers who need to have access to the data in order to perform their duties, other recipients e.g. insurers, banks, entities providing us with audit services, legal assistance, institutions that can demand data by law,
4. Your personal data will be stored for the duration of the business cooperation, for the period during which you could file a complaint or a lawsuit, as well as for the period during which we are obliged to process data under the tax laws, including the Income Tax Act and the Value Added Tax Act,
5. You have the right of access to your data and the right of rectification, erasure, restriction of processing, right of transfer, right to object, right to withdraw your consent at any time without affecting the lawfulness of the processing carried out on the basis of your consent before its withdrawal,
6. You have the right to lodge a complaint with the President of the Office for Personal Data Protection if you believe that the processing of your data violates the provisions of the GDPR.
7. Providing your personal data is a condition of concluding a contract and performing the contract, and the consequence of not providing your personal data shall be the lack of possibility to establish or end a civil law relationship with the Administrator.

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