

General Terms and Conditions of Sale and Delivery Stueken, L.L.C.



These terms and conditions shall apply to all sales of products and services (collectively, "Products") by Stueken L.L.C. to the below named customer ("Customer"). ANY ADDITIONAL OR DIFFERENT TERMS AND CONDITIONS IN CUSTOMER'S ORDER, ACKNOWLEDGMENT OR OTHER RESPONSE HERETO SHALL BE DEEMED OBJECTED TO AND REJECTED BY STUEKEN L.L.C. AND SHALL BE OF NO EFFECT. Customer will be deemed to have accepted these terms and conditions unless Customer notifies Stueken L.L.C. in writing of any specific objection(s) no later than five (5) days after receipt of the document or other communication incorporating or referencing these terms and conditions. Such notice must be separate from any other communication or document provided by Customer to Stueken L.L.C.

1. Quotation and Contract Conclusion

Customer's order for Products is not subject to Customer's cancellation, change, reduction in amount, or suspension of delivery except with Stueken, L.L.C.'s prior written consent and upon terms satisfactory to Stueken, L.L.C.

Unless otherwise specified, prices are subject to change without notice, including in the event of significant circumstances which dictate price alterations (raw material, wages, labor or other cost factors). Customer shall be responsible for all taxes, duties, or other charges imposed by any governmental authority with respect to the manufacture, sale, transportation, delivery and/or use of the Products.

2. Security Agreement.

Customer hereby grants Stueken, L.L.C. a security interest in the Products and all present and future attachments, exchanges, replacement material and additions, and all proceeds thereof, to secure prompt payment for such Products. Customer agrees that Stueken, L.L.C. may file with the appropriate filing office financing statements indicating that the foregoing are subject to the security interest of Stueken, L.L.C. and may take such other reasonable action contemplated by the Uniform Commercial Code, including but not limited to notifying Customer's lenders, if, and at such times as, Stueken, L.L.C. in its sole discretion, deems such actions necessary or desirable to protect its interests. Customer agrees that upon Stueken, L.L.C.'s request, Customer will certify to Stueken, L.L.C. in writing Customer's jurisdiction of formation / organization, and agrees that it will not dissolve, domesticate or reorganize under the laws of another state or otherwise alter the organizational structure of Customer or change its place of business without giving Stueken, L.L.C. thirty (30) days prior written notice. Customer also agrees to give Stueken, L.L.C. notice of any change to Customer's name within ten (10) days after such change.

If at any time and for any reason the financial responsibility of Customer shall become unsatisfactory to Stueken, L.L.C., Stueken L.L.C. may, without liability, decline to make further deliveries of Products except upon receipt of cash or other satisfactory security from Customer.

3. Quantity Determination

If Stueken, L.L.C. delivers to Customer a quantity of Products of up to 10% more or less than the quantity set forth in the applicable order, Customer shall not be entitled to object to or reject the Products or any portion of them by reason of the surplus or shortfall and shall pay for such Products the price set forth in the applicable order, adjusted on a pro rata basis.

The quantities determined by Stueken, L.L.C. in the outgoing goods inspection shall be determinative for the numbers of units, weights and dimensions, subject to any other proof being provided by Customer. In the event that the number of units is determined by Stueken, L.L.C. through reference weighing then this shall also be determinative if the actual number of units deviates up to 1 % due to measurement tolerances, etc. In this case the Customer shall neither be entitled to an additional delivery nor to any reduction and/or damages. Stueken, L.L.C. relies on its suppliers' representations that the raw materials provided match the applicable specifications. Stueken, L.L.C.'s outgoing goods inspection is limited in scope to its customary inspection for

outgoing goods at the Stueken, L.L.C. facility. Further tests and analyses are carried out only by special agreement between Stueken, L.L.C. and the Customer. The outgoing inspection does not release the Customer from the obligation to an incoming inspection. Customer undertakes to examine the Products immediately upon receipt, and in any event within ten (10) days of receipt.

Customer is obligated to purchase the total quantity of ordered goods within six months of the date of the contract. In the event that the Customer fails to issue releases for the total order quantity within this period, Stueken, L.L.C. reserves the right to ship all remaining Product or to withdraw from the contract. In such instance, Customer is obligated to pay the original contract price less any non incurred costs. Stueken, L.L.C. also reserves the right to invoice for any discount which was extended to the Customer based upon original order quantity.

4. Delivery or Shipment Terms; Transfer of Ownership

Stueken, L.L.C.'s acceptance of Customer's order is based on Stueken, L.L.C.'s continuous production of the quantity specified herein. If a smaller production run is necessary (based on a reduction in forecasted volumes or otherwise) or the Customer does not order as many Products as forecasted, Stueken, L.L.C. has the right to increase the purchase price or to invoice Customer separately for unrecovered tooling costs.

Unless otherwise confirmed in writing, delivery terms are "ex-works."

Partial deliveries by Stueken, L.L.C. are permitted.

Stueken, L.L.C. will not be liable for default or delays in delivery of Products hereunder if such default or delay is caused by fire, strike, riot, war, act of God, governmental order or regulation, complete or partial shutdown of plant by reason of inability to obtain sufficient raw materials or power, and/or any similar or different contingencies beyond Stueken, L.L.C.'s reasonable control. Quantities so affected may be eliminated from the amount ordered at the sole discretion of Stueken, L.L.C. without liability, and Stueken, L.L.C. may allocate its available supply internally or among its various customers (including affiliates) in any manner deemed fair and reasonable by Stueken, L.L.C. in its sole discretion.

In the event that the delivery is delayed due to circumstances for which the Customer is responsible, then risk of loss shall pass onto the Customer on the day of the readiness for delivery.

In the event that delivery of the Products is delayed for reasons for which Stueken, L.L.C. is not responsible, then the Customer, beginning from one month after the notification of readiness of dispatch, shall be invoiced for the costs incurred for storage of the Products at a cost of at least ½% of the invoice amount per month.

In the event that delivery of the products is delayed due to Stueken's default, then the parties agree that Stueken, L.L.C.'s liability for such delay shall be limited to ½% of the invoiced amount per month, subject a maximum liability of 5% of the invoiced amount.

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5. Limited Warranties

Stueken, L.L.C. warrants that, at the time of delivery, the Products (a) will conform to mutually agreed upon specifications, (b) will be free of all liens, encumbrances and claims of third parties, and (c) will not infringe any existing United States patents held by third parties; provided, however, that the foregoing warranty does not extend to infringement arising out of any designs, specifications, technology, or materials provided by Customer to Stueken, L.L.C. for use in producing the Products, or the use of the Products in combination with other products or in the operation of any process. STUEKEN, L.L.C. MAKES NO OTHER WARRANTIES, EXPRESS OR IMPLIED BY OPERATION OF LAW OR OTHERWISE, INCLUDING, SPECIFICALLY, STUEKEN, L.L.C. MAKES NO WARRANTY OF ANY KIND WITH RESPECT TO THE MERCHANTABILITY OF SAID PRODUCTS OR WITH RESPECT TO THEIR FITNESS FOR ANY PARTICULAR PURPOSE.

Stueken, L.L.C. shall not be liable for a breach of the limited warranties set forth herein unless Customer gives written notice of the defect, reasonably described, to Stueken, L.L.C. within twelve (12) months of the time when Customer discovers or should have discovered the defect.

6. Production Tooling Equipment

Customer is obligated to pay associated tooling contribution costs as detailed in pertinent Stueken, L.L.C. quotations and/or separate tooling agreements. Stueken, L.L.C. retains ownership of all tooling and production equipment.

Customer shall be responsible for the costs of any changes to Stueken, L.L.C. tooling made necessary by changes to Product specifications. Customer shall also be responsible for any damages to the tooling or to Stueken, L.L.C.'s equipment as a result of such changes.

7. Force Majeure

Force majeure, industrial disputes, unrest, measures by authorities and other unforeseeable, and unavoidable events release Stueken, L.L.C. for the duration of the disturbance and to the extent of their impact from the obligations of performance. This shall also apply if these events occur at a point in time, at which Stueken, L.L.C. is in default of the performance. Stueken, L.L.C. undertakes to provide the necessary information within the framework of that which is deemed as reasonable and to adapt its obligations to the changed circumstances in good faith.

8. Terms of Payment/ Pricing

Unless otherwise agreed upon and confirmed in writing, payment is to be made by cheque or bank transfer immediately on receipt of goods, without any reductions, free of charges to the bank account of Stueken, L.L.C. All applicable sales tax or value added tax in the valid applicable rate will be due and payable upon invoicing.

Quoted prices do not include packaging costs.

In case agreed payment dates are not adhered to then Customer shall pay interest on all late payments at the lesser of the rate of 8% per month or the highest permissible rate under applicable law. Customer shall reimburse Stueken, L.L.C. for all costs incurred in collecting late payments, including without limitation attorneys' fees.

Customer shall not withhold payments of any amounts due and payable by reason of any set-off or any claim or dispute with Stueken, L.L.C., whether relating to Stueken, L.L.C.'s breach, bankruptcy or otherwise.

9. Defective Products

Customer's remedy for any claim arising in connection with Products sold hereunder, including, without limitation, any claim arising out of the design, manufacture, sale, delivery, use or resale of Products, whether based on warranty, contract, negligence, strict liability or otherwise, will be to notify Stueken, L.L.C. in writing of the claim within ten (10) days of delivery of the Products. Stueken, L.L.C. will, upon confirmation of its

breach or other fault, at its option and as Customer's exclusive remedy, replace or rework the Products or refund the purchase price. Stueken, L.L.C. will not be liable under any circumstances for any special, consequential, incidental or punitive damages, including without limitation, any loss, damages, or expenses directly or indirectly arising from the use of goods, warehousing or manufacturing costs, lost profits or goodwill, labor, handling and service charges, recall or lost product costs or die, equipment, or machine breakage.

Customer agrees to indemnify, hold harmless and defend (including, without limitation, reimbursement for reasonable attorney's fees and expenses of litigation) Stueken, L.L.C., its agents, servants, representatives or employees, against any and all claims, by whomsoever made, arising in connection with Products sold hereunder, including, without limitation, any claim arising out of the design, manufacture, sale, delivery, use or resale of Products, whether based on warranty, contract, negligence, strict liability or otherwise for loss, damage or injury to property or person (including injuries resulting in death) allegedly caused by or arising out of the use of Products sold hereunder. The term "claims" wherever used in this paragraph shall include, without limitation, any claims in which Stueken, L.L.C., its agents, servants, representatives or employees, have or are alleged to have been negligent or otherwise to have contributed to the loss, damage or injury.

Stueken, L.L.C. cannot guaranty and hereby disclaims any responsibility for the effectiveness of heat treatments due to customer-specified processes or defective raw material. Stueken, L.L.C. shall carry out heat treatments in accordance with industry standards. Success of heat treatment, for example for absence of warpage and cracks, surface hardness, hardness penetration, curing, electroplating process etc., is not guaranteed in particular due to possible variations in hardenability of the material used, latent defects, disadvantageous shaping or because of any possible Customer induced changes in the previous workflow.

If heat treatment is unsuccessful without Stueken, L.L.C. being responsible because Customer specified the heat treatment process or Stueken, L.L.C. was unaware of hidden faults in the raw material prior to the heat treatment or could not know about them or because properties of the material used, or the shape or the condition of the workpieces hindered a successful heat treatment without Stueken, L.L.C.'s actual knowledge, Customer shall pay the agreed upon piece price nonetheless. Further, Customer agrees to pay separately for any heat treatments subsequently requested.

10. Confidentiality

Customer shall not at any time, without Stueken, L.L.C.'s express written permission, make use of (except for Stueken, L.L.C.'s direct benefit as authorized herein), disclose or allow to be disclosed to others any confidential information or trade secret regarding Stueken, L.L.C.'s products, prices, business, customers, processes, techniques or operations learned by Customer. All specifications, documents, drawings and other data delivered by Stueken, L.L.C. to Customer shall be subject to this confidentiality obligation. Customer's confidentiality obligation will not extend to information that is generally published or lawfully available from other sources or that was known to Customer prior to disclosure thereof by Stueken, L.L.C. Customer will not publicly disclose its business relationship with Stueken, L.L.C. nor use Stueken, L.L.C.'s name or trademark, without prior written approval of Stueken, L.L.C.

All documents, which are produced by Stueken, L.L.C. or made available to the Customer - such as samples, drawings, models, data as well as other information and similar documents made available - are, insofar as they are not clearly determined for the public, not to be made accessible to third parties.

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11. Place of Performance

Place of performance and location of the contract fulfillment is considered the Stueken, L.L.C. facility.

the Products, all prior and contemporaneous agreements being merged herein, and may not be modified except by written instrument executed by duly authorized officers of each party hereto.

12. Court of Jurisdiction & Applicable Law

This order and the parties' respective performance obligations hereunder are governed by and construed in accordance with the laws of the State of South Carolina. Any judicial proceeding arising out of or related to this order or the Products shall be instituted and maintained in the federal or state courts in Greenville County, South Carolina, and each party submits to the exclusive jurisdiction of such courts. The parties exclude the application of the United Nations Convention on Contracts for the International Sale of Goods.

Customer shall not delegate any duties or liabilities nor assign any rights or claims hereunder without the prior written consent of Stueken, L.L.C. Any such attempted delegation or assignment shall be void. Except as provided in this provision, the terms set forth herein shall be binding upon and inure to the benefit of the successors and assigns of the parties.

13. Miscellaneous

In the event that one or more provisions of these terms and conditions of sale and delivery shall be or become unenforceable this shall have no effect on the validity of the remaining provisions and on the contract as a whole. Failure by either party to require strict performance hereunder will not be deemed a waiver of that party's right to subsequently require strict performance. Except as provided expressly herein, these terms and conditions constitute the entire agreement of the parties with respect to

Agreed to and accepted by Customer this

_____ day of _____, 20_____.

Customer Name: _____

By: _____

Name: _____

Title: _____