

## **General Terms and Conditions of Business**

### **1 General**

The following General Terms and Conditions of Business shall apply to sales, supplies and payments in all business conducted by MICROPOOL. Any agreed variations thereto shall only be binding if expressly confirmed in writing by MICROPOOL. Inconsistent terms and conditions purported to apply by the Client, even if attached to the order or cited therein, shall only become binding on MICROPOOL if expressly agreed to by us in writing.

### **2 Object of contract**

The object of the contract is specified in the quotation and order forms in conjunction with these General Terms and Conditions of Business.

### **3 Terms of payment**

Unless otherwise agreed in writing, all payments shall be made net without deductions within 30 days from the date of invoice. All prices stated exclude value-added tax.

Goods are supplied unpacked ex works. A surcharge is made for express deliveries, which depends on the mode of shipment. Goods supplied within Switzerland will be invoiced exclusively in CHF.

Payments in EUR or another currency must be defined in the quotation phase and mutually agreed upon. Changes in the exchange rate can lead to the prices quoted in a foreign currency being adjusted appropriately.

In the event that the Client is in arrears of payment, the Client shall be obliged to pay interest on late payments at a rate of 5 % over the 3-month-LIBOR-rate, plus value-added tax where appropriate.

### **4 Warranty and liability**

MICROPOOL shall only be held liable for damages arising from an act or omission that is demonstrably willful or constitutes gross negligence. All liability on the part of MICROPOOL for slight or ordinary negligence, whether arising from breach of contract (liability due to faults or imperfections in the delivered products, late delivery, retention of business documents, drawings, models, etc.) or from a tortious act, shall be expressly excluded, insofar as other relevant provisions are not set forth below.

In particular, MICROPOOL shall not be held liable for damages that could not have been foreseen with state-of-the-art science and technology, nor for damages arising from the manufacture of tooling, molds or equipment.

In the event of faults or imperfections in the products supplied by MICROPOOL, the Client must comply with the legal obligation to inspect and give notice of defects. In the event of legally binding complaints concerning defects, MICROPOOL shall be entitled and obliged to undertake up to three attempts to repair or replace the defective products, at its option. If the defects are not remedied by these repair or replacement attempts, the Client shall be entitled solely to withdraw from the contract. In this case the Client shall be entitled solely to reclaim payments already made without accrued interest, but must return the products received to MICROPOOL.

### **5 Development orders in particular**

#### **Confidentiality**



MICROPOOL undertakes to hold in strict confidence all technical information and other proprietary or confidential business information of the Client made known to it in the course of its cooperation with the Client.

#### **Intellectual property (copyrights, expertise ...)**

MICROPOOL shall retain all right, title and interest in its intellectual property in the form of charts, drawings, technical documentation and software programs together with all rights associated therewith.

Within the scope of the application concerned, the Client shall be assigned a temporally unlimited, nonexclusive right of usage. The usage and exploitation rights of the Client are not transferable. They will not be assigned to the Client until payment for the development work performed by MICROPOOL has been received in full.

Separately assigned usage and exploitation rights may be agreed upon in writing.

#### **Industrial property rights (intangible property rights)**

The Client shall be entitled to the industrial property rights (patent, design ...) arising in the execution of the order. Following consultation with MICROPOOL the Client shall decide whether to register such property rights.

#### **Liability for infringement of intangible property rights**

MICROPOOL assumes no guarantee for the novelty of the developed or manufactured product, nor does MICROPOOL guarantee to the Client that the product developed or manufactured does not infringe the intangible property rights of third parties.

#### **Regulations and standards**

In the quotation phase the Client shall advise MICROPOOL of all laws, regulations and standards applicable to the project concerned. MICROPOOL gives no guarantee that the list of relevant regulations and standards is exhaustive.

#### **Taking-over, acceptance and passing of risk**

The Client must inspect and take over the resultant developed product after notification of its readiness. The risk is transferred to the Client at the time of acceptance. If the Client fails to accept the work promptly, the risk shall be passed to the Client at the time that the work is ready for taking-over. If taking-over does not take place on the premises of MICROPOOL in Bad Ragaz, the risk shall be passed to the Client as soon as the developed product is shipped to the Client.

#### **Warranty and liability in the case of development orders**

MICROPOOL guarantees solely that that the conceptual designs, drawings, models and development results that it creates do not deviate from the agreements made with the Client. In the event of any such deviation MICROPOOL shall only be entitled and obliged to undertake three attempts at rectification. If these should remain unsuccessful, the Client shall be entitled to withdraw from the contract. In general, the provisions set forth in paragraph 4, Warranty and liability, shall apply.

## **6 Reservation of title**

Goods supplied by MICROPOOL shall remain the property of MICROPOOL until payment of the purchase price has been effected in full.

MICROPOOL shall be entitled to claim reservation of title for products supplied by it and to have this entered in a retention of title register. The Client shall expressly consent to this registration of the reservation of title.



In the event of seizure or distraintment of the products prior to payment having been effected, the Client shall be obliged to notify all third parties of the reservation of title. The Client shall furthermore be obliged to notify MICROPOOL forthwith of any such seizure or distraintment.

## **7 Data protection**

All personal and corporate data relating to the Client that is required for the performance of the contract and support of the Client shall be treated as confidential by MICROPOOL and not divulged to third parties without the express written permission of the Client.

## **8 Severability**

If any individual contractual provision between the parties or any provision of these General Terms and Conditions of Business is held by any competent authority to be invalid or unenforceable in whole or in part, the validity of the other provisions or the remainder of the provision concerned shall not be affected thereby. In the event of a provision being deemed invalid or unenforceable, in whole or in part, the contracting parties or the arbitrators shall act in good faith to replace the said provision by one that is valid and enforceable and to the extent permitted serves the same commercial purpose intended by the invalid or unenforceable provision or stipulation.

## **9 Applicable law**

**All business transactions with MICROPOOL shall be governed by Swiss law. The place of performance and place of jurisdiction for all disputes arising from business transactions with MICROPOOL shall be CH-7310 Bad Ragaz, Switzerland.**

## **10 Settlement of disputes**

In the event of differences of opinion and disputes the parties involved must first exploit all opportunities for negotiating an amicable settlement before referring the dispute to a court of arbitration.