

TERMS AND CONDITIONS OF SALE AND DELIVERY

Valid as of: January 2009

1. General

- Our Terms and Conditions of Sale and Delivery have exclusive validity for all deliveries and other performances.
- Deviating conditions of the seller / commissioning party are excluded even if we should not contradict these.

2. Offers, Scope of performance and Conclusion of the Contract

- Our offers are always non-binding. This also has validity for all information provided in catalogues, on the website, in brochures, price lists and other publications.
- Orders are only binding for us if we have confirmed these in writing, or have shipped the goods. Verbal subsidiary agreements are only binding if we have confirmed these in writing. Our order confirmation is exclusively authoritative as regards the scope of the performance which is to be provided as defined in the contract.
- Excess or short deliveries of max. 10% are customary in the branch and are deemed to constitute a fulfilment of the contract. The buyer does not have a right to demand delivery of the short delivery or return the excess quantity.
- Partial deliveries are permissible.

3. Prices

- The prices which we confirm have validity. These are deemed to be ex works net of value added tax and all incidental expenses such as packaging and transport costs.
- Subsequent requests for modifications made by the ordering part as regards specifications, quantities, materials, etc. entitle us to adapt the price accordingly.
- The prices for blanket purchase orders are those which have validity on the date of the respective partial order being delivered

4. Terms of Payment

- The invoiced amount is due immediately after receipt of the invoice and payable within a period of 30 days without deduction.
- Invoices for partial tool costs are payable immediately without deduction.
- Should the time allowed for payment not be adhered to, we are entitled to charge default interest at the customary current account interest rate and reserve the right to assert additional claims.
- In the case of there being justifiable doubts concerning the solvency or creditworthiness of the buyer, we are entitled to demand securities or advance payments for future deliveries and services in addition to us demanding immediate settlement of all claims arising from the business relationship.

5. Setting off, Retention

The setting off and retention of our claims are excluded, the exception being if the setting off claim is undisputed and is legally binding.

6. Shipment and the Passing of the Risk

- Our goods are exclusively shipped for the account and risk of the buyer.
- The risk passes as soon as we make the goods available and have informed the buyer of this.

7. Warranty

- Warranty claims of the buyer only exist if the seller has correctly met its examination and complaint obligations pursuant to section 377 HGB [German commercial code]
- The warranty claims of the buyer are statute barred one year after delivery of the goods, the exception being if we have fraudulently concealed the defect. The legal provisions have validity in this case.
- If the goods should have a defect for which we are responsible, we have a duty to provide a supplementary performance within a reasonable time limit. The supplementary performance can be in the form of a remedying of the defect (subsequent improvement) or the delivery of a new item, according to our choice. If the supplementary performance should not succeed, the buyer can choose whether to have the purchase price reduced (diminution) or the contract rescinded (redhibition).
- Claims of the buyer over and above the foregoing are excluded.

8. Compensation

The assertion of compensation claims by the buyer on the grounds of a defect can only be asserted if we have breached fundamental contractual duties through intent or gross negligence or have caused death, personal injury or health impairments as a result.

9. Force majeure

If a contractual fulfilment should be impossible on the grounds of the occurrence of force majeure event, the contractual duties of both parties are in abeyance for the duration of this disturbance and in the scope of its effect. Any resulting delays which exceed a period of 6 weeks entitle both of the parties to repudiate the contract. No claims and rights over and above the foregoing exist.

10. Reservation of Title

- The sold goods remain our property until our payment claims arising from the business relationship with the buyer have been fully settled. The buyer is entitled to dispose of the sold goods in the ordinary course of business.
- The reservation of title is also valid for products which result from the processing, mixing or joining of our goods in their full value, whereby we are deemed to be the manufacturer. Should a processing, mixing or connecting with or to third party goods result in their reservation of title remaining in force, we acquire co-ownership in the ratio of the invoice value of these goods.
- The buyer already asserts his claims against third parties from the reselling in their entirety or in the amount of our co-ownership share respectively by way of security. He is authorized to collect these on our account until revocation or the cessation of payments to us.
- The buyer is also not entitled to assign these claims for the purpose of the collection of claims by way of factoring; the exception being that the factoring obligation is justified at the same time in that the counter performance is to be directly effected towards us as long as we still have claims against the buyer.
- The buyer is to provide us with immediate written notification of the accessing of our goods and claims by third parties.
- In the case of a default in payment or a worsening of the financial situation of the buyer, we are entitled to demand an immediate surrendering of the reserved goods.
- The exercising of the reservation of title is not deemed to be a repudiation of the contract.

11. Tool Ownership, Copyright

- Tools and other production aids which we require and use for the manufacturing of the ordered goods remain our property. The provision has the same validity with regard to tools which are set up by third parties in our commission.
- We exclusively invoice the buyer with partial tool costs. The payment of the partial tool costs which we have invoiced to the buyer does not entitle the buyer to demand the transfer of ownership of the tools or their surrendering.

- We obligate ourselves to exclusively using these tools for the delivery of orders placed by the buyer during the term of the contract. Provisions which deviate from the foregoing require the separate and written approval of the buyer.
- In the case of deliveries being made on the basis of drawings, samples or information provided by the seller, he indemnifies us from all third party industrial property rights. The buyer has a duty to ensuring that the use of the goods delivered by us does not result in an infringement of any third party industrial property rights.
- The buyer is only to pass drawings, plans, illustrations, samples and other documents to third parties or make them known to the same with our prior written approval. We expressly reserve any copyright.

12. Place of Performance, Jurisdictional Venue, Applicable Law

- The place of performance and jurisdictional venue for deliveries and payments and all disputes which may arise between us and the buyer is our legal domicile. We are also entitled to file an action with a court which has jurisdiction for the legal domicile or branch of the buyer.
- The relationships between the parties to the contract are exclusively subject to the law of the Federal Republic of Germany. The applicability of the uniform law concerning the conclusion of international purchase contracts for movables and the UN Purchase Law is excluded.

13. Binding Nature of the Contract

Should one or more provisions of these Terms and Conditions of Sale and Delivery should be invalid or be so in the future, this has no effect on the validity of the remaining provisions. The parties to the contract obligate themselves in good faith to replacing an invalid provision with one which has the same commercial success and which is reasonable. The same has validity should a situation which requires a provision should not be expressly regulated.

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