

General Terms and Conditions of Sale and Delivery

§ 1 Scope

- The General Terms and Conditions of Sale and Delivery set forth hereunder apply to all - also future - contracts with our customers or other buyers or clients (hereinafter referred to as customers or buyers) even if they are not explicitly mentioned in later contracts.
- In case of doubt the Incoterms in their respective latest version are relevant to the interpretation of trade clauses.

§ 2 Offer / Purchase orders

- Our offers are subject to change. Verbal agreements, promises, representations or warranties provided by our employees in connection with the conclusion of the contract become binding only by our written confirmation.
- The purchase order by a customer is a binding offer. It is at our discretion to accept this offer within 4 weeks either by sending an order confirmation or by sending the ordered goods to the customer within this period.

§ 3 Samples, brochures, quality details

- Samples, models, drawings, tools or similar items as well as finished products and semi-finished products provided by us for inspection (hereinafter referred to as "samples") remain our property and may be passed on to third parties only with our explicit written approval. These samples, unless they are small series or pilot series manufactured particularly for the customer, must not be used for the manufacture or development of the customer's own or external products. The use of our samples, models, etc. for advertising purposes is not allowed unless approved by us.
- All samples are always provided as non-binding samples for inspection purposes unless they are small series or pilot series manufactured particularly for the customer. Technical specifications are subject to a written confirmation and are therefore to be regarded as approximate only. Even if certain properties have been promised, deviations are allowed within the scope customary in trade.
- Details and illustrations provided in brochures and catalogues do not represent descriptions of the quality of the goods but are approximate values which are customary in our line of business, unless they have been explicitly designated as binding by us.

§ 4 Production materials

- The manufacturing cost of production materials (tools, gauges, equipment, etc.) and of samples of the goods to be supplied will always be separately invoiced to the customer.
- Production materials manufactured by us by order of the customer remain our property and are kept in safe custody by us.
- If, during the period of production of samples or production materials, the customer suspends or terminates his cooperation with us, all manufacturing cost so far incurred will be at his expense.
- The duty to keep the production materials in safe custody always ends three years after the last delivery to the customer. After this, we are not obligated to effect further safekeeping unless the customer places a new purchase order with us within six weeks of our written notification of expiry of the period of safekeeping or unless he gives us any other instruction about the use of the production materials.
- Production materials which have been specifically produced for a customer may be used for third parties only after the customer has provided his explicit consent.

§ 5 Dates, places and scope of delivery

- The agreed delivery periods and dates are always deemed approximate unless a fixed date has been explicitly agreed in writing.
- The delivery period commences with the posting of the order confirmation, but not before any documentation, approvals, releases, etc. to be procured by the customer have been provided. The delivery period is considered as observed if, before the expiry of this period, the advice of readiness for dispatch has been given or if the delivery item has left the factory.
- In the event of measures within the scope of industrial disputes such as in particular strike and lock-out as well as in the event of unforeseeable impediments beyond our control the delivery period shall be extended by the time the impediment lasts. This applies also if these circumstances occur at suppliers. For the duration of the above mentioned impediments no consequences of delay will occur even if we are already in delay at the time of entry of these circumstances. The customer will be informed as soon as possible about the commencement and end of such impediments.
- Partial deliveries are allowed to a reasonable extent within the delivery periods indicated by us unless the customer has included different provisions in his purchase order with indication of an important reason.
- The scope of delivery is determined by our written order confirmation.
- During the delivery period we reserve the right to effect changes in design or form which are based on technological improvements and/or requirements of the law provided that the delivery item is not considerably changed and that the changes are acceptable to the customer.
- We don't allow any shipment to IRAN.

§ 6 Cancellation costs

- If the customer unjustifiably cancels an order placed with us, we shall be entitled, without prejudice to the option of claiming an actually higher damage, to request 10% of the sales price for costs incurred due to the processing of the order and for lost profit. It is up to the customer to prove that the actual damage has been smaller.

§ 7 Shipment, packing

- Unless agreed otherwise we deliver "ex works". Shipment of the goods is always effected for the account and at the risk of the customer, even if freight is prepaid. If delivery and receipt are effected free to the nearest railway station, surface freight and (or) cost of cartage are not included. With the handing over of the goods to the carrier the risk passes to the customer unless delivery is effected by own means of transport. Taking-over by the carrier is considered as proof of proper condition of the wrapping.
- In other respects the title to packing passes to the customer and is charged by us. Postage and freight costs as well as packing expenses are separately invoiced. The type of shipment is selected according to our equitable discretion.

§ 8 Acceptance and passing of risk

- The customer is obligated to accept the delivery item and to immediately examine it for potential defects.
- If the customer intentionally or gross negligently falls behind schedule with the collection or acceptance of the delivery item for more than fourteen days from the receipt of the notice of readiness, we shall be entitled, after granting a respite of another fourteen days, to withdraw from the contract or to claim damages because of nonperformance. We shall not be required to grant a period of respite if the customer seriously and finally refuses acceptance or is obviously not in a position to pay the purchase price within this period.

§ 9 Prices, price changes, mark-up for small-volume purchases, terms of payment

- Our prices are always quoted exclusive of the legal value added tax.
- Price changes are allowed if the period between the conclusion of the contract and the agreed delivery date is more than four months. If raw material prices or other material costs increase after this period until completion of the goods, and if furthermore customs duties, taxes or other duties for mineral oil as well as freight are increased or introduced, we shall be entitled to reasonably increase the price according to these cost increases. This applies also if a fixed price has been agreed. The customer is entitled to withdraw from the contract only, if the price increase considerably exceeds the rise of the general cost of living in the period between the placing of the purchase order and the delivery. If the customer is a merchant, a corporate body under public law or a special fund under public law, price changes are allowed according to the above provision if a period of more than six weeks is between the conclusion of the contract and the agreed delivery date.
- The purchase price and the consideration for secondary services are due and payable with the handing over of the delivery item unless other provisions have been explicitly agreed in writing. Any acceptance of bills of exchange always requires a prior written agreement with us. If bills of exchange are accepted, the bank discount and collection fees are charged. They are immediately payable in cash.

§ 10 Set-off, delay

- If the customer is a merchant, a corporate body under public law or a special fund under public law, the retention of payments due to any counterclaims of the customer which have not been recognized by us or which have not been established by a court order, is not allowed, neither is the set-off against such counterclaims.
- If the buyer is a merchant, he is deemed to be in delay if he fails to effect payment upon our reminder which is sent after the purchase price has fallen due. Irrespective of this, a customer who is a merchant is deemed to be in delay if he fails to effect payment as of a certain calendar date determined in the contract. The legal regulation according to which the debtor is automatically in delay thirty days after receipt of the invoice remains unaffected by this.

§ 11 Defects, complaints, warranty

- According to § 377 of the German Commercial Code notices of defects are to be effected in writing immediately, but not later than two weeks after receipt of the goods. If the customer uses, applies or processes the supplied goods this is considered as acceptance of the goods and as a final waiver of any kind of warranty claims or other claims.
- If faulty goods have been supplied, it will be at our option to effect replacement delivery or, if possible, subsequent improvement. Rejected goods can be returned only with our consent.
- The warranty period for merchants amounts to 12 months after the passing of the risk to the customer, for consumers in terms of § 13 of the German Civil Code the legal warranty periods shall apply.
- The warranty does not refer to damage caused after the passing of the risk due to unsuitable or improper use, faulty installation and commissioning, natural wear and tear, faulty or negligent treatment, excessive strain, unsuitable operational equipment or due to electrical and/or mechanical influences, unless these have been caused by a fault on our part.
- The customer is entitled to effect a reduction of the purchase price or to withdraw from the contract if a reasonable period granted to us for subsequent improvement (rectification of defects, replacement delivery, procurement of spare parts) with regard to a defect according to these terms and conditions of delivery elapses unsuccessfully, if the subsequent performance fails twice or if it is no longer acceptable to one of the parties.
- Liability is excluded for all damage unless it is explicitly mentioned in the above provisions, even unless it has been caused to the delivery item itself. Excluded from this is damage
 - which has been caused due to wilful intent or gross negligence of the owners, executives or auxiliary persons.
 - which is due to culpable breach of contractual duties. In the latter case the supplier shall be liable only for foreseeable, typically occurring damage.
- Furthermore, the exclusion of liability does not apply in those cases where liability is assumed for damage to life, limb or health or for material damage caused by privately used items because of a defect of the delivery item, provided that the warranty particularly intends to secure the customer against damage which has not been caused to the delivery item itself.

§ 12 Retention of title

- All delivered goods remain our property ("reserved goods") until all claims have been fully paid, particularly balances arising under the business relations ("reserved right with respect to balance") and receivables established by the insolvency administrator on a unilateral basis as part of choice of fulfillment. This applies also to receivables arising in future and conditional receivables, e.g. from accepted bills, and if payments are made with respect to particularly designated receivables. This reserved right with respect to balance becomes finally discharged if all outstanding receivables covered by this reserved right have been paid. We are entitled to effect assignment of accounts receivable from customers.
- The processing of reserved goods shall be carried out for us as manufacturer within the meaning of § 950 of the German Civil Code, but shall not entail liability on our part. The processed goods shall be regarded as reserved goods within the meaning of above item 1. If the customer processes, combines or mixes the reserved goods with other goods, we shall be entitled to co-ownership in the new goods in proportion of the invoiced value of the reserved goods to the invoiced value of the other goods used. If, by such combining or mixing, our ownership expires, the customer transfers to us already now his title to the new stock or goods to the extent of the invoiced value of the reserved goods and shall keep them in safe custody for us free of charge. Our coownership rights shall be regarded as reserved goods in terms of the above item 1.
- The customer may resell the reserved goods only within the normal course of his business in accordance with his normal business terms and as long as he is not in default of payment, provided that he reserves the title to the goods and that the claims arising from the resale will be transferred to us according to above items 4 to 6. The customer shall not be entitled to dispose of the reserved goods in any other way. The use of the reserved goods for the performance of contracts for work and services is also considered as a resale in terms of this § 12.
- The claims resulting from the resale of the reserved goods are assigned to us already now together with all securities which the customer obtains in respect of the claim. Such claims shall serve as our security to the same extent as the reserved goods. If the reserved goods are resold by the customer together with other goods not purchased from us, then any receivables resulting from such resale shall be assigned to us in the ratio of the invoiced value of the reserved goods to the invoiced value of the other sold goods. In the event of a resale of goods in which we have co-ownership rights according to above item 2, the assignment shall be limited to the share which corresponds to our co-ownership rights.
- The customer shall be entitled to collect any receivables resulting from the resale. This right to collection shall expire if withdrawn by us, at the latest if the customer is in default of payment, fails to pay a bill of exchange or if a petition for the institution of insolvency proceedings is filed. We shall exert our right of revocation only if and in so far as it becomes evident after the conclusion of the contract that our payment claim resulting from this or other contracts with the customer is at risk due to his inability to pay his debts. At our request, the customer is required to immediately inform his purchasers of the assignment to us and to forward to us any information and documents required for collection.
- The assignment of claims arising from resale is not allowed unless it is an assignment pursuant to a genuine factoring arrangement of which we have notice and in which the factoring proceeds exceed the value of our secured receivable. Our receivable claim shall be immediately due and payable upon the receipt of the credit of the factoring proceeds.
- The buyer is to immediately inform us of any pledging or other impairment by third parties. The buyer shall bear all costs not reimbursed by third parties which have to be incurred to release the attachment on or the re-transport of the reserved goods.
- If the buyer is in delay of payment or if he fails to pay a bill when it is due and payable, we shall be entitled to take back the reserved goods and for this purpose to enter the buyer's premises. The same applies if it becomes evident after conclusion of the contract that our payment claim arising from this or other contracts with the buyer is at risk due to his inability to pay. If we take back the reserved goods, this shall not be regarded as a withdrawal from the contract. The regulations of the German Insolvency Act remain unaffected.
- If the value of the existing securities exceeds the secured receivables including additional claims (interest, costs, etc.) by more than 50% in total, we are in this respect obligated at the buyer's request to release securities of our choice.

§ 13. Final remarks

- In addition to these terms and conditions the German non-unified law, in particular the German Civil Code/Commercial Code apply to all legal relations between us and the customer - even if the customer has his registered office abroad. The provisions of the Vienna UN Convention of April 11, 1980 on Contracts for the International Sale of Goods are not applicable.
- Place of jurisdiction and place of performance for merchants is Essen.
- If individual provisions are ineffective, this shall not affect the validity of the remaining provisions. The parties are obligated to replace the ineffective provision by an effective one which comes as close as possible to the economic success aimed at by the ineffective provision.

General Terms and Conditions of Purchase

§ 1 Scope

These General Terms and Conditions of Purchase apply to all transactions with the supplier or other contractors (hereinafter collectively referred to as 'supplier'), even if they are not mentioned in subsequent contracts. We hereby explicitly object to the inclusion of general terms and conditions of delivery or other general terms of the supplier. This applies also if the supplier makes reference to his own general terms and conditions, in particular in his acceptance of the purchase order or in the order confirmation, unless we have explicitly agreed to these conditions in writing. The preparation of offers is free of charge for us and without engagement. For the interpretation of trade clauses the Incoterms are relevant in their respective applicable version.

§ 2 Purchase orders

- (1) A purchase order is deemed to be placed not until it has been set out in writing and signed by us. Purchase orders placed verbally or over the telephone shall be binding to us only, if they are followed by a written purchase order for confirmation.
- (2) The supplier is obligated to accept the underlying offer to which our purchase order refers within a period two weeks. With his acceptance of the purchase order the supplier acknowledges that he has informed himself about the type of performance and scope of service by inspection of the available documentation. In the event of obvious mistakes, typing errors and calculation errors in the documents submitted by us we shall not be committed to these. The supplier is obligated to inform us about such errors so that our purchase order can be corrected and placed again. This applies also if documents are missing.
- (3) The purchase order no., material no. and supplier no. mentioned in our purchase order are to be quoted in all correspondence (confirmation, shipping documents, invoices, etc.).
- (4) Acceptance of our purchase order is to be confirmed to us within two weeks from receipt of the purchase order by signing the copy of the purchase order or with a document of the same contents or else we shall be entitled to revoke our purchase order.
- (5) Deviations from the text and contents of our purchase order with regard to quantity and quality as well as subsequent changes of the contract are deemed to be agreed not until they have been explicitly confirmed by us in writing.
- (6) Drawings, tools, samples, models or similar items as well as finished products and semi-finished products which have been made available by us remain our property and may be supplied to third parties only with our explicit written approval. Except as otherwise agreed in the individual case these items are to be immediately returned to us without request upon completion of the purchase order. Products manufactured and/or labelled with such production materials may be supplied to third parties only with our explicit written approval.
- (7) The use of our inquiries and purchase orders for advertising purposes is not allowed, unless approved by us, see also § 14.

§ 3 Delivery dates

- (1) The agreed delivery periods and dates are binding. They start from the date of the purchase order. The goods must arrive at the receiving centre indicated by us within the delivery period and/or on the delivery date. The supplier is to immediately inform us of any delays expected and to obtain our decision as to the continued validity of the purchase order.
- (2) If the supplier falls behind schedule with his delivery we shall be entitled after a reminder to request a penalty of 0.5% of the net order value per started week, up to a maximum of 5% of the net order value of the supply and/or to withdraw from the contract. The penalty paid is set off against any damage claims. § 343 of the German Civil Code remains unaffected by this.
- (3) We are not obligated to accept delivery before expiry of the delivery period.

§ 4 Delivery / Shipment

- (1) Delivery is effected exempt from charges at the expense of the supplier to the receiving centre indicated by us. If the freight is payable by us as an exception, the supplier shall choose the type of transport specified by us or otherwise the type of transport and delivery which is the most economical for us. We will not effect any freight payment in advance. If ex-works conditions apply, parcels should always be dispatched with postage paid in order to avoid additional charges. Postal charges paid in advance are to be specified in the invoice. If delivery is effected ex works by a forwarding agent, only the effective rates charged by our regular forwarder shall be reimbursed; cartage, etc. is at the expense of the supplier.
- (2) The dispatch advice is to be provided on the day of delivery. The risk shall pass to us not until the delivery has been accepted at our receiving centre.
- (3) The consignee's address is indicated in the purchase order.

§ 5 Packing

- (1) Packing is included in the price. If a different agreement has been made as an exception, the packing is to be charged at cost price. The supplier shall choose the packing specified by us and ensure that the goods are protected from damage by the packing.
- (2) Returnable containers such as barrels, drums, boxes, etc. are to be provided free of charge. Return shipment of these containers after emptying is effected on a freight collect basis and/or, if delivery has been effected by truck, they are returned to the delivering truck. If they are not taken back, the supplier shall pay the cost of their disposal.
- (3) The outer packing and/or transport packing must be identified according to statutory provisions. A corresponding contract for disposal is to be concluded by the supplier. A copy of the contract shall be sent to us upon request. Otherwise the packing will be disposed of at the expense of the supplier and/or placed at his disposal again.

§ 6 Documentation

- (1) Delivery notes, invoices and packing lists shall be enclosed with each consignment in two copies on the day of delivery. Monthly invoices shall be submitted until the third working day of the following month. In the event of delayed submission of invoices we shall fix the date of invoice receipt as the value date.

§ 7 Prices

- (1) Unless explicitly agreed otherwise, the agreed prices are fixed prices unless the supplier has effected a general reduction of the respective prices.
- (2) The supplier shall not grant us prices and conditions which are less favourable than those granted to other purchasers provided that and in so far as these other purchasers offer the same or similar conditions to him in the concrete case.

§ 8 Invoice/Payment/Assignment of claims

- (1) Invoices are to be separately made out for each purchase order. Payment will be effected not until the faultless goods have been fully received and/or until faultless service has been provided and not until the invoice has been received. The same applies accordingly to partial deliveries. Delays caused by incorrect or incomplete invoices shall not affect the deadlines for deducting cash discount.
- (2) Unless agreed otherwise payment is effected within in 14 days with deduction of 2% cash discount or net cash within 30 days.
- (3) The supplier's accounts receivable from us may only be assigned to third parties with our consent. Payments are effected only to the supplier.

§ 9 Retention of title

- (1) In respect of the seller's right of retention of title his conditions shall apply on the understanding that the title to the goods passes to us upon payment, and accordingly the extended form of current account retention shall not apply.
- (2) The seller may only demand return of the goods on the basis of retention of title, if he has withdrawn from the contract.

§ 10 Guarantee/Warranty/Complaint

- (1) We are entitled to the full statutory warranty claims. If defects are initially not identifiable, it shall be sufficient to report these to the supplier within two weeks of their discovery. The supplier warrants that the goods including their packing and labelling correspond to the details specified by us. Our purchase order and/or our order shall be carried out in a proper and workmanlike manner according to the state of current technology.
- (2) If faulty goods are delivered, the supplier shall be given the opportunity, at our option, to effect either rectification of the defects or replacement delivery. If the supplier is unable to do so or if he fails to immediately comply with our request and the time-limit fixed by us, we shall be entitled to return the goods at the supplier's risk and to obtain our goods elsewhere. In urgent cases we shall be entitled to remedy the defect ourselves or have this work carried out by a third party after notification of the supplier. The costs thereby incurred shall be paid by the supplier.
- (3) The warranty for the product manufactured by the supplier and/or for the order performed by him ends after the expiry of 12 months after delivery and acceptance.
- (4) Provisions shall be ruled by statutory provisions unless agreed otherwise in the above provisions.

§ 11 Manufacturer's liability

For damage which is due to a fault of the supplier the latter shall release us from the resulting liability provided that the damage has not been caused by contributory negligence on our part. With acceptance of our purchase order the supplier confirms that he has taken out a product liability insurance with sufficient cover. Where contract processors and refiners are involved, any damage caused to our products by the supplier must also be covered by the insurance.

§ 12 Industrial property rights

The supplier guarantees that no third party patent or other industrial property rights are infringed as a result of his supply. He indemnifies us and our customers in so far against all claims arising from the use of such industrial property rights. This does not apply in so far as the supplier has manufactured the supplied goods according to drawings, models or other similar descriptions or requirements provided by us and does not know or is unable to know in connection with the products manufactured by him that industrial property rights are thereby infringed.

§ 13 Force majeure

War, civil war, export restrictions and/or trade restrictions due to a change in political conditions as well as strike, lockout, business disruptions or business restrictions or similar events which make the performance of the contract impossible or unreasonable for us are classed as force majeure and release us from the duty of timely acceptance for the duration of their existence. The contracting parties are obligated to inform each other of such events and to adjust their obligations to the changed conditions in good faith.

§ 14 Final remarks

- (1) German law shall exclusively apply to all legal relations between the supplier and us even if the supplier has his registered office abroad. The UN Sales Convention is explicitly excluded.
- (2) Place of jurisdiction and place of performance for merchants is Essen.
- (3) If individual provisions are ineffective, this shall not affect the validity of the remaining provisions. The parties are obligated to replace the ineffective provision by an effective one which come as close as possible to the economic success aimed at with the ineffective provision.

A&R Greifenberg GmbH, Zeche Ernestine 12, 45141 Essen
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