

# SIEBFABRIK Arthur Maurer GmbH & Co. KG General Terms and Conditions of Sale and Delivery

## 1. Applicability

1.1. These terms and conditions of sale and delivery apply exclusively to all contracts with companies, public corporations and special entities under public law in respect of deliveries of goods and other services including contracts for work and services, consultations, proposals and other secondary services. We will only recognise buyers' conditions contrary to, or at variance with, these terms and conditions of sale and delivery if we have expressly agreed their validity in writing.

1.2. These terms and conditions of sale and delivery will also apply to all future transactions with the buyer in so far as they pertain to legal transactions of a related nature.

## 2. Quotations, quotation documents

2.1 Our quotations are without obligation. Purchase orders will only become binding with our confirmation of order.

2.2 Any information in the form of e.g. dimensions, weights, photocopies, drawings, assembly diagrams etc. contained in brochures, catalogues, sample books, price lists and other printed matter is only approximate and non-binding unless expressly designated by us as binding.

2.3 We reserve title and copyright to any documents supplied by us in connection with the placing of the order, both before and after the concluding of the contract. The said documents may only be duplicated or made accessible to third parties with our express written approval and, if the contract does not materialise or is dissolved, are to be returned to us without delay at our request.

### 2a. Limitations to the authority of representatives

**Verbal agreements, promises or guarantees given by our employees in connection with the concluding of the contract will only become binding with our written confirmation.**

## 3. Prices

3.1 Prices are ex-works and are subject to statutory value added tax at the rate in force at the time. Unless otherwise agreed, the charges for loading, transport, custom duties, packing, postage, insurance etc. will be invoiced separately. The method of shipping will be chosen in accordance with our best judgement.

3.2 In every case, the prices and conditions given in our price list will apply at the time of the concluding of the contract. Price adjustments are permitted if more than six weeks elapse between the concluding of the contract and the agreed date of delivery. If, in such a case, wage rates or material costs rise or cost prices increase in accordance with the dictates of the market between the concluding of the contract and the completion of the goods, we will be entitled to increase our price to a reasonable extent, commensurate with the cost increases.

3.3 Returned packing materials will only be accepted at our factory during normal business hours and subject to their being clean, free of any foreign bodies and sorted by type of material.

## 4. Deliveries, delivery periods

4.1 The delivery specification will be determined by our written confirmation of order. We will be entitled to make part deliveries to a reasonable extent. They will be invoiced separately.

4.2 The applicable DIN standards in respect of the dimensions, weight or quality of the delivered goods will be deemed to have been agreed for all deliveries. Divergences will be permitted, provided the tolerances allowed by the DIN standards are not exceeded. Divergences beyond these will also be permitted, provided they are customary to the industry. Over- or under-deliveries of up to 10% of the ordered quantity arising from production constraints (including part deliveries) are permitted. In such cases, the quantities and weights specified in our delivery notes will be decisive for invoicing purposes.

4.3 Our obligation to deliver is subject to the proviso that we ourselves are supplied correctly and on time, unless incorrect or delayed deliveries to us result from circumstances for which we are responsible.

4.4 Information as to delivery periods is approximate unless it is expressly specified by us as binding. Delivery periods begin with the date of our confirmation of order. Adherence to agreed delivery periods is subject to the proviso that all the commercial and technical queries between the parties to the contract have been clarified and the buyer has fulfilled all the obligations incumbent upon him, such as the procurement of any official certificates or permits or other documents which may be required. Failing this, the delivery period will be extended accordingly. This will not apply if we are responsible for the delay.

4.5 The decisive factor for adherence to delivery periods and dates is the date of dispatch from the factory or warehouse. They will be deemed to have been met with notification of readiness for dispatch if the goods cannot be dispatched on time without our being negligent. If the dispatch or collection of the goods is delayed for reasons attributable to the buyer, any costs arising out of the delay will be charged to him, commencing one month after notification of readiness for dispatch or collection.

4.6 Acts of God will entitle us to postpone the delivery for the duration of the hindrance plus a reasonable startup time. This will also apply during an existing period of delay. Acts of God are defined as monetary measures, trading policy measures and other acts of state, strikes, lockouts, operating disruptions for which we are not responsible (e.g. fires, shortages of raw materials or energy, machine breakdowns), obstructed traffic routes, delays in the customs clearance of imports and any other circumstances which render delivery particularly difficult or impossible for reasons for which we are not to blame. In such cases, it is irrelevant whether the circumstances affect us or our suppliers. If the disruption lasts for more than two months, both parties will be entitled to withdraw from the contract.

## 5. Payments

5.1 Unless otherwise agreed, payments are to be made nett, without any deductions, within 30 days at the latest after delivery and the invoice date.

5.2 Payments for installation work, labour and expenses are to be made nett, without any deductions, within four working days at the latest after the invoice date.

5.3 Bills of exchange and cheques will only be accepted by us by special agreement. The provision thereof will only count as payment after they have been redeemed. The bank's handling and discount charges and any other costs are to be borne by the buyer and are to be paid immediately in cash.

5.4 In the event of the buyer falling into arrears with payment, we will be entitled to demand interest on arrears at the rate of 8% above the base rate of the European Central Bank. The assertion of further claims remains unaffected hereby.

5.5 If the buyer falls into arrears of payment or, following the concluding of the contract, it becomes evident that our claim for payment is put at risk by the buyer's inability to pay, we may decline to provide our service and set the buyer a reasonable period of grace within which he is to make stage payments against our service or, at our discretion, furnish a fair security. If the period of grace set by us expires without result, we will be entitled to withdraw from the contract or to demand compensatory damages. If other debts arising out of the business connection are outstanding, we will be entitled to make these due for immediate payment without regard to any agreed periods for payment and to return any bills of exchange received before they mature and to demand immediate payment in cash.

5.6 The buyer will only be entitled to assert any rights of retention and to set off his liabilities with any counter claims (even if he has complained about a defect) if his claims have been established as valid or undisputed in law or have been acknowledged by us in writing.

## **6. Collections, transfer of risk**

**6.1** The buyer has a duty to collect the goods without delay, otherwise we will be entitled to dispatch them or to store them at the expense and risk of the other party to the contract.

**6.2** Unless otherwise agreed, the handover is to take place immediately on the agreed date, preferably immediately after our notification of readiness for collection from our factory or warehouse. The risk of the accidental destruction or deterioration of the goods will be transferred to the buyer when they are handed over. If, at the buyer's request, the goods are forwarded to him, the risk will be transferred to him when they are dispatched or when they leave the factory/warehouse at the latest.

**6.3** If the goods are to be collected, this process is decisive for the transfer of risk. The buyer may not refuse to accept the goods on the strength of an inessential defect.

**6.4** If the dispatch or collection is delayed or prevented by circumstances for which we are not responsible, the risk will pass to the buyer from the date of our notification of readiness for dispatch or collection.

## **7. Retention of title**

**7.1** We will retain title to the delivered goods until all the debts arising out of the business connection, including any subsidiary liabilities, have been paid in full. This will also apply to all future deliveries, even if we do not always expressly make reference thereto. We will be entitled to take back the goods if the buyer behaves in a manner contrary to the terms of the contract.

**7.2** The buyer will be entitled to resell the goods in the ordinary course of business. At the same time, however, he will assign to us all the debts due to him from the resale to an amount corresponding to the value of the respective invoice (including value added tax), irrespective of whether the goods are sold before or after processing. The buyer will be authorised to collect debts even after they have been assigned. This authorisation can be revoked at any time. Our own entitlement to collect debts ourselves remains unaffected thereby but we undertake not to collect debts so long as the buyer fulfils his payment obligations in accordance with our terms and conditions and does not fall into arrears. In the latter event, however, we may ask the buyer to provide us with details of the assigned debts and the related debtors and all the information necessary to make collections, to hand over the related documents to us and to inform the debtors (third parties) of the assignment accordingly.

**7.3** Any processing or reconstruction of the delivered goods by the buyer will be undertaken exclusively for us. If the goods are processed or inseparably combined with other goods not belonging to us, we will acquire co-ownership of the new articles to an extent corresponding to the final invoice value of our goods as a proportion of the cost price of the other processed or combined goods at the time of their processing. The buyer is to safeguard the said co-ownership for us.

**7.4** The buyer may neither pledge the delivered goods nor assign them as a security. In the event of their being seized, sequestered or otherwise taken into possession by a third party, the buyer is to inform us immediately and to provide us with all the necessary information and documents we will need to protect our rights. If we suffer a loss as a result of the third party being unable to reimburse us for the legal or out-of-court costs of our lawsuit, the loss is to be borne by the buyer.

**7.5** At the buyer's request, we undertake to release securities to which we are entitled if their value exceeds the value of the secured debts (in so far as these are still outstanding) by more than 20%.

## **8. Defects**

**8.1** The assertion of claims for defects is subject to the proviso that the buyer has correctly fulfilled his obligations to conduct inspection and complaints procedures in accordance with Article 377 of the Code of Commercial Law. Obvious defects are to be reported without delay or 14 days at the latest after receipt of the goods, while hidden defects are to be reported immediately following their discovery, otherwise the goods will be deemed to have been accepted.

**8.2** Claims for defects will be barred by the statute of limitations one year after the delivery of the goods. This will not apply if Article 438, Section 1, Clause 2, Article 479, Section 1 or Article 634a, Section 1, Clause 2 of the Civil Code makes provision for longer periods, or in the event of a malicious or grossly negligent infringement of duty, or a culpable fatal or physical injury or harm to the health, or defects which we fraudulently conceal or the absence of which we have guaranteed.

**8.3** If, despite the utmost care, delivered goods exhibit a defect which was present even before the transfer of risk, we will, subject to the defect being reported within the allotted period, repair or replace them with goods free of defects, at our discretion. The buyer is to allow us a reasonable period of time and opportunity to carry out the repair or replacement for every defect which arises.

**8.4** If the repair or replacement proves to be a failure, the buyer may withdraw from the contract or pay a reduced amount, notwithstanding any claims for compensation whatsoever, as provided for in Article 9 of these terms and conditions. Only in urgent cases of a threat to operating safety or to prevent disproportionately serious damage will the buyer be entitled to rectify the defect himself or have it done by a third party and to claim compensation from us for the expenditure necessarily incurred thereby.

**8.5** Claims for defects are excluded in a case of negligible deviation from the agreed condition, an insignificant impairment of usability, natural wear and tear and damage arising after the transfer of risk as a consequence of inappropriate or negligent treatment, excessive stress or the use of unsuitable operating materials not constituting a prerequisite within the terms of the contract. If the buyer or a third party carries out inappropriate repair work or modifications, no claims for defects will likewise arise for this or the subsequent consequences.

**8.6** At variance with Clauses 8.1 - 8.5, we will also be entitled, for the purpose of carrying out repairs or making replacements, to assign claims which we may have against our suppliers and/or manufacturer and to demand that the buyer himself pursues the said claims, if necessary through the courts. If the buyer fails to achieve satisfaction against the suppliers and/or manufacturer for the claims assigned to him by us, he will be entitled to claim on us in accordance with Clauses 8.1 - 8.5.

## **9. Liabilities**

**9.1** If the delivered goods cannot be used by the buyer in accordance with the terms of the contract as a consequence of our negligence through our failure to provide advice or for providing incorrect instructions for the use and maintenance of the goods, or through our infringing other secondary contractual obligations, the provisions laid down in Articles 8 and 9 will apply, to the exclusion of any other claims by the buyer, together with the provisions specified in Clause 9.2 below.

**9.2** We will only be liable for damage not affecting the delivered goods themselves (irrespective of for what legal reason and particularly in the event of a delayed delivery or claims for impermissible treatment) only in a case of malicious intent or gross negligence for which we are responsible, our legal representatives or principal vicarious agents, fatal or physical injury or harm to the health for which we are culpable, the fraudulent concealment of a defect, the granting of a guarantee on the condition of the delivered goods within the meaning of Article 444 of the Civil Code, or in cases of liability for privately owned articles according to the Product Liability Act in respect of personal injury or material damage. In the event of a culpable infringement of fundamental contractual obligations, we will also accept liability for gross negligence on the part of non-executive vicarious agents and for minor negligence, limited, in the latter case, to reasonably foreseeable damage typical of contracts of this nature.

**9.3** Any other claims are excluded, notwithstanding the legal nature of the asserted claim. If our liability is excluded or limited, the same will apply to the liability of our representatives and vicarious agents.

## **10. Export regulations**

If the goods supplied by us are exported by the buyer, the latter is to observe the applicable statutory regulations governing exports.

## **11. Concluding provisions**

**11.1** The buyer may only assign claims made against us with our approval.

**11.2** The law of the Federal Republic of Germany is to apply exclusively to the contractual relationship. The application of the United Nations Convention on Contracts for the International Sale of Goods (CISG) is excluded.

**11.3** The venue for all legal disputes, including any such disputes within the framework of proceedings relating to bills of exchange or cheques, shall be Reutlingen for both parties. We will also be entitled to bring proceedings before the court appropriate to the domicile of the other party to the contract.

**11.4** If any individual clauses in these terms and conditions are or become invalid, the other agreements will nevertheless remain in effect.