

General Terms and Conditions for Deliveries and Services

I. General Stipulations

1. All deliveries and services (hereinafter "Deliveries") shall be taken on and carried out exclusively on the basis of these General Terms and Conditions. The Purchaser's terms and conditions shall not become content of the contract, even if we do not expressly object to them or we accept payments unconditionally. Deviations from our Terms and Conditions of Business shall only be effective, if we acknowledge them in writing.
2. In principle, our quotations shall be subject to change without notice and be non-binding. Contracts (purchase orders and order acknowledgements), as well as amendments, additions and collateral agreements must, in principle, be in writing.
3. Our order acknowledgements shall be exclusively authoritative for the scope and nature of the delivery. Any order shall only be deemed accepted upon its written acknowledgement on our part. Verbal collateral agreements or verbal representations which go beyond the written contract shall be ineffective.

II. Prices and Payment

1. Our prices shall be in Euros and shall, except where otherwise expressly agreed upon, apply to deliveries of goods EXW, ex works Solingen (INCOTERMS 2000). Incidental expenses such as costs in connection with packaging, insurance, freight, storage, external inspection etc. shall not be included. The minimum order value is 100.-- Euros.
2. We must receive payment by the agreed dates without any deduction.
3. The Purchaser shall not be permitted to retain payments or set off payments against any counterclaims disputed by us. The Purchaser shall only have the right to retain or set off payments in so far as its counterclaims are undisputed or have been determined by a final and non-appealable court judgement. If this is not the case, any right of retention on the part of the Purchaser must originate from the same contractual relationship as our claim and be reasonably proportionate to our claim.
4. In the event of non-compliance with the dates for payment, interest at the average rate of interest demanded on the market for business account overdrafts, however at least the statutory interest rate, shall be charged - without any further reminder - from the day following the date for payment.
5. In the event of default in payment or in the event that our receivables are jeopardised by a material deterioration in the Purchaser's credit-worthiness, we shall be entitled to declare our receivables due immediately or demand security. We shall also be entitled to make the execution of Deliveries still outstanding conditional upon advance payment or the provision of security.

III. Delivery Period

1. Delivery periods given shall always be regarded as approximate and shall be subject to timely clarification of all details of the order, particularly the provision of all documents and approvals to be procured by the Purchaser, the clearance of drawings, the punctual receipt of any agreed down payment and the punctual provision of any agreed security for payment.
2. The agreed dates for delivery shall be deemed complied with upon notification of readiness for shipment, particularly if the delivery items are unable to be dispatched in due time through no fault of our own. Even a defective delivery may comply with a date for delivery.
3. The delivery period shall be appropriately extended in cases of force majeure, labour dispute measures, particularly strike and lockout, and upon the occurrence of unforeseen impediments which are beyond our will, in so far as such impediments provably have a substantial impact upon the completion or delivery of the delivery item. This shall also apply, if the circumstances occur at sub-suppliers.
4. In the event of default on our part, the Purchaser shall be entitled to set a reasonable grace period of at least three weeks and rescind the contract after the grace period has expired to no avail. The stipulations of section IX shall also apply to any losses in connection with non-compliance with periods for delivery.

IV. Acceptance

1. If an acceptance inspection by the Purchaser has been agreed upon, it must be carried out without undue delay following notification of readiness for acceptance. If the execution of the acceptance inspection is delayed or is incomplete through no fault of our own, the delivery item shall be deemed accepted upon our written request for an acceptance inspection and upon expiration of a reasonable time limit set by us, in so far as we have specifically pointed out this consequence. The Purchaser shall, without prejudice to its rights under section VIII, not be entitled to refuse acceptance on account of insubstantial defects. In any event, acceptance shall also enter into effect, if the delivery item is put into operation without our consent.
2. The Purchaser shall bear the total costs associated with the acceptance inspection, except for our personnel costs.

V. Passage of Risk, Delivery

1. The risk shall pass to the Purchaser upon provision of the goods at the place of performance. If the place of performance is ex works, the risk shall pass to the Purchaser upon notification of the provision of the goods.
2. Shipment shall occur on the Purchaser's account and at the Purchaser's risk, even if carriage-paid delivery is agreed upon or part deliveries are made.
3. Delivery items notified as being ready for shipment must be called off for delivery immediately. Otherwise, we shall be entitled to store them at the Purchaser's expense and risk at our discretion and charge for them as if they had been delivered.
4. We shall be entitled to carry out and charge for part deliveries.

VI. Retention of Title

1. All Deliveries shall be made under retention of title. Title shall only pass to the Purchaser upon payment of its entire liabilities arising from its business relationship with us. In the case of a running account, the title retained shall be deemed to be security for our balance receivable. Any bills of exchange or cheques given in payment shall only be deemed payment when honoured.
2. The Purchaser shall be entitled to process and dispose of the goods in the ordinary course of its business. However, the Purchaser shall not be permitted to pledge the goods or transfer the title therein as security.

3. The Purchaser hereby assigns to us its receivable arising from reselling the goods which are under retention of title, regardless of whether the goods under retention of title are on-sold without having been processed or after having been processed. We accept this assignment. The receivable assigned shall serve as our security, however only in the sum of the value of the respective goods sold under retention of title.
4. In the event that the goods under retention of title are processed, we - rather than the Purchaser - shall acquire the title to the new item as per section 950 *BGB* [German Civil Code]. The goods processed shall serve as security only in the sum of the value of the goods under retention of title. In the event that the Purchaser processes the said goods together with other goods not belonging to us, we shall be entitled to joint ownership in the new item as per sections 947 and 948 *BGB* in the ratio of the value of the goods under retention of title to the value of the other processed goods at the time of processing. The new items created as a result of processing shall be deemed to be goods under retention of title as defined by these terms and conditions.

VII. Maintenance of Secrecy, Data Protection

1. We shall retain rights of title and copyrights in drawings, models, calculations and other documents. The Purchaser shall, without undue delay, notify us in the event that it becomes aware of infringements of our rights of title or copyrights.
2. The Purchaser shall be obliged to keep secret all drawings, models, calculations, business secrets or company secrets received from us in physical or electronic form, as well as all other confidential documents and information. These may only be made accessible to third parties with our written consent and in so far as necessary. The obligation to maintain secrecy shall also apply after the implementation of the contract. It shall only lapse if and in so far as information has become generally known.
3. Subject to the stipulated purpose of the respective contract and to observance of the data protection stipulations, we shall be authorised to also process, ourselves or through third parties, the personal data confided to us. In this respect, we shall ensure that the data protection provisions are complied with.

VIII. Liability for Defects

We shall provide warranty for defects in our Deliveries and services, including any absence of features which have been guaranteed, as follows:

1. Defects shall be notified to us in writing without undue delay (section 377 *HGB* [German Commercial Code] applies). Such defects shall be subject to recognition on our part.
2. Our warranty shall not extend to losses due to improper intermediate storage, incorrect assembly, excessive use, improper servicing, incorrect product design on the part of the customer or errors of interpretation on account of incorrect / incomplete particulars from the customer. Nor shall it extend to the replacement of wear and tear parts or to the consequences of normal wear and tear. Purchased parts used by us shall be subject to the manufacturer's terms and conditions of guarantee. We shall not recognise complaints in cases where alterations or rectification work have been carried out on the delivered items without our consent.
3. The warranty period is 24 months from commissioning, however no later than 30 months from the time of passage of risk. This shall not apply in so far as the law prescribes mandatory liability or longer periods.
4. The warranty for defects recognised by us shall, at our option, be honoured either by rectification or by delivery or performance on our part without defects.
5. We shall be granted a reasonable period for the fulfilment of our warranty obligation. If rectification or replacement is impossible or definitively fails, or if we default on rectification or replacement, the Purchaser may - upon expiration of a reasonable grace period - demand either abatement or recession of the contract, at its option. Further claims of the Purchaser, particularly claims to compensatory damages, are excluded, except in cases of wilful misconduct or grossly negligent conduct on our part, on the part of any of our statutory representatives or on the part of our agents in contract. The same applies to the absence of any features which have been guaranteed. Only features expressly referred to as guaranteed in the written acknowledgement of the order shall be deemed guaranteed within the meaning of these provisions.

IX. Liability - General Stipulation

We shall be liable solely in accordance with the statutory provisions and subject to the following terms and conditions:

1. Liability for indirect losses and consequential losses such as for example loss of use, lost profit, business disruption losses and financing costs is excluded, in so far as the loss was caused by negligence on the part of ourselves or our agents in contract and we have not fraudulently concealed any defect in quality.
2. In all cases where we are liable for compensatory damages on account of contractual or statutory grounds of a claim, we shall only be liable in so far as wrongful intent or gross negligence is imputable to us, any of our statutory representatives or our agents in contract. Our liability shall be limited to compensation for the loss foreseeable at the time of the purchase order, capped at the sum of the order value. This limitation of liability shall, of course, not apply to wilful acts.
3. Our liability for losses arising from injury to life, body or health shall be governed by the statutory provisions. The provisions of the German Product Liability Act are not affected by our General Terms and Conditions of Business.

X. Place of Performance, Place of Jurisdiction, Applicable Law, Other Stipulations

1. The registered office of the company M.A.T. Malmedie Antriebstechnik GmbH is the place of performance for our Deliveries. If we are also required to render support services, the place where the services are to be rendered shall be the place of performance. The point of payment stated in our invoice shall be the place of performance for the Purchaser's payment obligation.
2. Solingen is the exclusive place of jurisdiction for all legal disputes. However, we may also bring an action against the Purchaser at the courts of its place of general jurisdiction or at the place of the infringing act.
3. All legal relations between the Purchaser and ourselves shall be governed exclusively by the laws of the Federal Republic of Germany, with the exclusion of the United Nations Convention on Contracts for the International Sale of Goods (UN sales law/CISG).
4. Collateral agreements must be in writing. This also applies to any nullification of the written form requirement itself.