

Business Terms and Conditions of matur GmbH

I. Application

The terms and conditions subsequently listed apply to offers, contracts, deliveries, payments and warranty agreements made to business people, legal persons of public law and corporations owning public funds.

II. Conclusion of agreement, Content of agreement

1. The rights and obligations between us and our contractual partners are determined exclusively on the basis of these conditions. These shall also apply to future contractual relations. Any deviating Terms and Conditions of Customer shall have no validity. Deviating regulations shall be binding only if we have acknowledged these in writing in an order confirmation or in a separate agreement.
2. All our offers are nonbinding and noncommittal, if they have not been expressly characterised as being obligatory or containing a specific acceptance period. We shall accept orders or contracts awarded within fourteen days upon receipt; for prices, please refer to III.
3. Technical and design information in general descriptions and brochures are not binding. We have the right to amend performance characteristics, constructional descriptions and materials in the course of furthering the technical development of our products. This, as long as the product remains suitable for the task for which it was contractually defined to perform
Information supplied on our products shall only stand for guaranteed quality, if this has been expressly assured in written form.
4. Specimens, construction designs, schematic or written representations of our products and cost estimates are under our copyright and remain our property. These may not be made available to third parties without our prior permission, and shall be returned to us upon demand, without delay. The reproduction of copies on paper or in electronic form is not permissible without our prior consent. Customer shall repair any damages to us which may ensue from the transgression of our property and copyrights, except, if proven that the damage occurred inadvertently.

III. Prices, Payments

1. If not otherwise agreed upon, the prices quoted on offer shall apply ex works including loading, plus the rate of value added tax at actual. Packing shall take place in accordance with usual commercial practice; the packing costs shall be billed separately. Customer shall be obliged to fetch the ordered article from our premises at his expense and risk. Services to be rendered for delivery, installation and assembly shall be the subject of a separate agreement.
2. Should our purchase or labour costs increase between contract conclusion and project completion, we reserve the right to increase the prices contractually agreed upon. A price increase of up to 5% shall not require a special proof of reasonableness.
3. If not otherwise agreed upon, 40% of the contract price (plus the value added tax) shall be due within 10 days, starting from the date of order confirmation, 40% shall be due with the report of completion, with the remainder being paid on collection. If assembly and/or start-up have been agreed upon by us, the remaining purchase price shall be due on completion of the assembly and/or with the conclusion of start-up. The maturity of the remaining purchase price shall then be due, if the customer does not fetch the contracted item within two weeks after report of completion.
4. The set-off with counterclaims of the customer and the retention of payments due to such claims shall be permissible only, if the counterclaims have been determined to be indisputable or valid.
5. We are entitled to dispatch deliveries or to render still pending services only against advance payment or on the deposition of security, should it become known after conclusion of contract that circumstantial evidence exists to cause doubt of the creditworthiness of Customer; doubt which could substantially endanger the payment of our outstanding arrears by Customer. Such payments shall cover all cases in which outstanding claims relating to particular contractual relationships or involving other special orders covered by the same basic agreement apply, are endangered.

IV. Delivery and Assembly

1. Completion and assembly dates shall be binding only if they have been agreed upon in writing. The dates shall be duly extended, if Customer does not pay up his financial commitments or is late in providing technical details or supplying information on delivery and installation, or if permissions he is obliged to produce are still pending. Customer shall have the right to prove to us that we are responsible for any deadline transgressions.
2. A delivery time agreed upon shall be seen as kept, if the completion announcement is received within the set time-limit or when the customer has fetched our product. Our product shall be considered as accepted, at the latest on expiration of 8 working days starting from the collection date; if installation, assembly or start-up have received our concurrence, the product shall be deemed as accepted after 8 working days following the report of completion of installation, assembly or start-up.
3. Delays ensuing at production time or during distribution, assembly and commissioning exercises conducted by us, shall be reported to the customer without delay.
4. We shall not bear responsibility for delays, if these are due to disturbances in the power supply, to import or export difficulties unknown to us, to traffic and operational obstruction, to strike action, or to force majeure. In such cases, liability on our part for non performance, incorrect or unpunctual delivery by our suppliers shall be ruled out. In any case, we shall be liable only if Customer sends us a reminder after granting a minimum twoweek respite. Customer shall be entitled to cancel the contract, if non-performance of contract can be proved. Further Customer demands are ruled out, except he can prove that the delays have been caused by gross negligence or through deliberate inaction

V. Place of Delivery, Passage of Risk, Insurance

1. Place of delivery for all obligations resulting from our contractual relationship, is the location of our address, Am Kalvarienberg 24, 92536 Pfreimd, if nothing else has been designated. Should the installation be still outstanding, place of delivery shall be the place where the installation is to take place.
2. Upon handover of the delivery goods (whereby the start of loading is relevant), the risk shall pass to the forwarding agent, haulage contractor or the third party charged with the execution of dispatch. Should we be contracted to conduct delivery, the risk shall pass to us under the same preconditions.
3. Should the dispatch or delivery be retarded due to circumstance, the cause of which falls under the responsibility of Customer, the damage liability shall pass to Customer on the day we are ready for dispatch, this having been duly indicated to the contracting party.
4. Customer shall bear the storage costs after the passage of risk. Should the Seller undertake to store the goods, the cost shall amount to 0.25% of the invoiced amount per week. The right to claim and proof of increased or reduced storage costs shall remain valid.
5. Should Customer wish to insure the product, we shall take such an insurance policy upon the written instruction of Customer. In the absence of any other instructions to the contrary, the insurance policy shall be taken on the original value and for the risk of the product leaving our work premises, all the way to the assembly location, incl. unloading.

VI. Retention of Title

1. The product supplied by us shall remain our property up to the complete payment of all due debts - also for other deliveries.
2. Should the delivered but unpaid for products be sold further, Customer shall immediately surrender to us, as a measure of security, the receivables to be claimed from the buying party. The same shall apply to other demands which may ensue instead of these products or which may otherwise develop in this connection; for example insurance claims or claims ensuing from illegal activity involving loss or damage. We authorize Customer revocable to use his good name to redeem the outstanding debt for our account.
Should a third party have access to the conditional commodity, especially through sequestration, Customer shall immediately inform of our ownership of the property and also inform us, so that we can assert our entitlement to it. In as far as the third party is not able to refund to us the costs resulting from any judicial and out-of-court proceedings involving this case; Customer shall be held responsible for any such outstanding arrears.
3. We are entitled to take an insurance policy on the product at the expense of Customer against theft, breakage, fire, water and other damages, for the time up to the passage of title, as long as Customer does not prove to us that he has taken a corresponding insurance policy for the product on our behalf.
4. Should Customer be in complete or partial default of payment as according to Figure III, 3, we shall reserve the right to request restitution of our product. This shall also apply, if a request for initiating insolvency procedures is placed on the property of Customer and not rescinded within 10 days, or if Customer becomes insolvent. We are entitled to fetch our product at the expense and risk of Customer. For this, Customer shall grant us already today and irrevocably, the right to enter and drive-off his premises temporarily this also being granted to any forwarding enterprise we charge with the task.
Should we withdraw from a contract due to delay of payment, we shall be entitled to freely put the product to use, with the due diligence of a prudent business person. Proceeds resulting thereof shall accrue to Customer, in so far as such an amount shall not be charged to our financial account for money owed to us (remaining purchase price, forwarding, erection, dismantling and insurance costs).

VII. Warranty Claims and Warranty

1. Our products shall correspond to the state-of-the-art technology at the time of conclusion of agreement. We shall not be liable
 - a. for improper storage of our products outside our area of influence,
 - b. for errors during installation, commissioning or operation,
 - c. for wear and tear during normal operations,
 - d. for unqualified maintenance works,
 - e. for the application of unsuitable equipment and materials,
 - f. for the results of repair works or other activities undertaken on our products, which have not been expressly approved by us.

It is the duty of Customer to prove our responsibility for errors committed, as understood in the items listed under a to f.

2. Customer is obliged to inspect the product upon delivery. Notice of obvious or other defects which become apparent after immediate and careful examination shall be given within a week of the delivery date, in written form; should any such defects become manifest only during operation time, the one-week rule for giving notice after manifestation shall also apply. The delivered objects or materials shall be deemed as approved of, if the notice of deficiency does not reach the Supplier in written form and within the time-limit stated above.
3. Upon demand from us, the object of contention shall be returned to us at no cost to Customer. In case of a justified notice of defect, we shall reimburse the costs, based on the most favourable transit routing. This shall not apply if the costs increase, because the article to be delivered is at a location other than the appointed site of operation.
4. Our warranty obligation is limited to the fulfilment of the guaranteed performance, whereby we shall conduct deficiency corrections or supply replacements as we see fit.

In the case of deficiencies involving the components of other manufacturers, which we are incapable of correcting, for concrete or licence-related reasons, we shall, as we see fit, pass on the warranty obligations to the manufacturer and supplier for reparations to Customer or empower Customer to do so. Claims of liability lodged against us for such deficiencies shall be considered as appropriate under the conditions and in compliance of these General Terms and Conditions only when the legal claims made to the manufacturer in pursuance of the aforementioned obligations have been unsuccessful or appear hopeless, due, for instance, to bankruptcy. During the course of the legal battle, the statutory period of limitation of the warranty granted by us to the customer shall be suspended.

As far as the removal of defect or fulfilment of contract is concerned, Customer shall grant us an appropriate period, as the circumstances may be, of at least two weeks. In case of replacement delivery, we shall be entitled to a period of two weeks, plus the time required manufacturing the product.

In order to prevent inevitable dangers and damages, we accept to undertake self-removal or thirdparty removal, insofar as the deficiency and the consequences resulting thereof are reported to us and cover all the necessary expenditures incurred in that particular case. Defective or otherwise exchanged parts shall be placed at our disposal.

5. Could we not fulfil our contractual obligations or not do it within the stipulated time-limit, Customer shall have the right to demand a reduction of the purchase price; should the product be unusable for the purpose defined in the contract, due to any deficiencies for which we bear responsibility, Customer shall have the right to abrogate the contract.
The right of abrogation is however ruled out in case of constructional deficiencies.
6. Any further claims lodged by Customer after regulation shall be ruled out, if customer does not prove beyond doubt that we have transgressed any rules on purpose or due to gross negligence or those we have infringed upon the Product Liability Law.

VIII. Choice of Law, Jurisdiction

Place of jurisdiction for all claims between the contractual partners is Schwandorf. The laws of the Federal Republic of Germany shall apply. Ruled out are the UN Sales Laws.

IX. Final Provisions

As far as the contract or these General Terms and Conditions contain regulation gaps or invalid regulations, those legal regulations deemed to be valid upon considering the economic objectives of the contract and the purpose of these general terms of delivery, shall be considered as agreed upon, which the contracting parties would have agreed upon, if they had recognized the regulation gaps or invalid regulations.

The invalidity of an individual contractual term does not affect the validity of the remaining terms.