



GENERAL CONDITIONS OF SALE AND DELIVERY

Paul Beier GmbH Werkzeug- und Maschinenbau & Co. KG, 34127 Kassel, GERMANY

To be used with respect to:

1. a person acting, at the time of the conclusion of the contract, in a commercial or self-employed context (concept of "entrepreneur/enterprise" pursuant to German law);
2. corporate bodies under public law or a special asset under public law.

I. General

1. Any deliveries and/or services shall be subject to the present conditions and any separate contractual agreements that may exist. Deviating conditions of purchase of the Purchaser do not become part of the contract even if an order is accepted. Unless otherwise agreed, a contract is concluded upon written confirmation of the order by the Supplier.
2. The Supplier reserves its property rights and copyright pertaining to models, cost estimates, drawings, and other physical or non-physical information, including electronic information; they shall not be made available to a third party. The Supplier shall be obliged to make Purchaser information and documents described as confidential accessible to third parties only with the Purchaser's consent.

II. Offer and pertaining documents

1. Our offers are non-binding and subject to change. The scope of our obligation is described in our written order confirmation. Documents such as brochures, pictures, illustrations, descriptions, technical data and samples, weights and measurements are non-binding, unless expressly acknowledged by us as binding in the order confirmation or other written declaration.
2. Where our order confirmation deviates from the offer or the order, our written order confirmation shall be binding if not opposed to within a period of 10 (ten) days following the confirmation order dispatch date.
3. Requests to subsequently amend the order confirmation by the Purchaser shall require our written confirmation to become an integral part of the contract. We shall be entitled to make changes to the object of the contract, provided that this does not result in a loss technology-wise.

III. Protection of supplier / customer base

Each Purchaser shall guarantee full protection of our supplier / customer base. It undertakes to keep prices and contract negotiations concerning any of the products and objects offered secret and to refrain from forwarding offers to a third party without having obtained our prior consent. In the case of negligent non-adherence to the above provision, the Purchaser shall be liable to pay damages; the onus of proof that it is not guilty of a negligent breach of duty shall be incumbent on the Purchaser.



GENERAL CONDITIONS OF SALE AND DELIVERY

IV. Price and payment

1. Unless otherwise specifically agreed, prices apply ex works, including loading in the works and excluding packaging, freight, customs, insurance and unloading, which are charged separately, if applicable. The prices do not include value added tax at the then applicable statutory rate.
2. Unless otherwise specifically agreed, payment shall be made without any discount to the account of the Supplier as follows: 1/3 pre-payment upon receipt of order confirmation, 1/3 upon notification to the Purchaser that the main parts are ready for dispatch, the remainder within one month following transfer of risk.
3. For any orders, including calls and multiple-supply contracts, where delivery takes place more than four months following the order date in accordance with the contract or the Purchaser's request, we shall be entitled to charge the Purchaser for any material or labour costs increases occurring between the contract date and the delivery to the Purchaser to accommodate such price increases.
4. The Purchaser's right to retain payment or set off payment against any counterclaims it may have, shall be limited to undisputed or non-appealable counterclaims.
5. The Purchaser's right to set off payment against any counterclaims based on other legal relationships shall be limited to undisputed or non-appealable counterclaims.

V. Delivery period, delayed delivery

1. The delivery period is as agreed between the parties to the contract. The Supplier shall be bound to observe the period set, provided that all commercial and technological questions between the parties to the contract have been resolved and the Purchaser has fulfilled all of its obligations, including, without limitation, provision of required official authorisations and/or approvals and transfer of a down payment. In the negative, the period for delivery shall be extended appropriately. This shall not apply to the extent that the Supplier is responsible for the delay.
2. The delivery period is accepted on the proviso that the Supplier receives its supplies correctly and timely. The Supplier shall notify imminent delays as soon as possible.
3. The period for delivery is deemed observed if, upon its expiry, the goods to be delivered ("Goods") have left the works of the Supplier or the Goods' readiness for dispatch has been notified. Except in the case of justified refusal, any agreed acceptance procedure shall be carried out at the acceptance date, or alternatively, following the Supplier's notification of readiness for acceptance.
4. Should dispatch, or as the case may be, acceptance of the Goods be delayed for reasons for which the Purchaser is responsible, it shall be charged the cost incurred for such delay, starting one month following our declaration of readiness for dispatch, or as the case may be, acceptance.
5. If the delivery period is not observed due to force majeure, industrial action or other occurrences beyond the Supplier's control, the delivery period shall be extended accordingly. The Supplier shall inform the Purchaser as soon as possible of the commencement and end of such occurrences.
6. The Purchaser may withdraw from the contract without prior notice if it becomes ultimately impossible for the Supplier to provide full performance prior to the transfer of risk. In addition, the Purchaser may withdraw from the contract if, during the



GENERAL CONDITIONS OF SALE AND DELIVERY

implementation of an order, a part of the delivery becomes impossible and it has a legitimate interest in rejecting the partial delivery. If this is not the case, the Purchaser shall pay the contractual price attributable to the partial delivery. The same shall apply *mutatis mutandis* if the Supplier is unable to provide performance. Furthermore, Article X.2. shall apply. If the impossibility or inability materialises during a delay of acceptance or if the responsibility for the circumstances is solely or predominantly with the Purchaser, the latter shall still be obliged to provide counter-performance.

7. In the event that the Purchaser incurs damage as a result of a delay attributable to the Supplier, the Purchaser may claim a lump-sum compensation. It amounts to 0.5 per cent for every full week of delay up to a maximum of 5 per cent of the value of those parts of the overall delivery that cannot be used in time or in accordance with the contract as a result of the delay. If, after the due date and taking into account the statutory exemptions, the Purchaser fixes a reasonable period for performance, and if this period is not observed, the Purchaser shall be entitled to withdraw from the contract as provided for by law. Upon the Supplier's request, it is obliged to declare whether or not it will exercise its right to withdraw from the contract. Any other claims shall be settled exclusively in accordance with Article X.2. hereof.

VI. Dispatch, packaging, costs

Delivery is effected at the risk and for the account of the Purchaser. Even in the case of freight-free delivery, we shall not be liable for damage or loss suffered in transit. Unless otherwise agreed, we may choose the type of packaging and dispatch.

VII. Transfer of risk, acceptance

1. The risk shall pass to the Purchaser when the Goods have left the works, even when partial deliveries are executed or other obligations have been assumed by the Supplier, e.g. dispatch costs or transportation and installation. If acceptance has been specifically agreed, the risk shall pass thereupon. It shall take place immediately at the date of acceptance, or alternatively following the Supplier's declaration of readiness for acceptance. The Purchaser shall not be entitled to refuse to accept the goods due to minor defects.
2. In the event that dispatch, or as the case may be, acceptance, is delayed or is not carried out at all due to circumstances not attributable to the Supplier, the risk shall pass to the Purchaser as of the day readiness for dispatch / acceptance has been declared. The Supplier agrees to obtain any insurance policies requested by the Purchaser at the Purchaser's expense.
3. Partial deliveries shall be permitted unless they are unreasonable for the Purchaser to accept.

VIII. Reservation of title

1. The Supplier reserves the title to the Goods until receipt of all monies due from the entire business relationship, including any ancillary claims, such as costs for bills of exchange, financing and interest.
2. Until the title has passed upon the Purchaser, the Supplier shall be entitled to take out insurance for the Goods against theft and damage from breakage, fire, water or other



GENERAL CONDITIONS OF SALE AND DELIVERY

- risks, at the cost of the Purchaser, provided that the Purchaser cannot prove to have obtained such protection.
3. Where the Purchaser is in breach of the contract, in particular if it defaults in payment, the Supplier, following a reminder, is entitled to take back the Goods and the Purchaser shall be obliged to return them. To be able to demand the return of the Goods due to the retention of title, the Supplier shall first have to withdraw from the contract.
 4. The Purchaser shall be entitled to resell items delivered under a reservation of title only in its normal course of business. The Purchaser must not give the items supplied in pledge and may not pledge them as security. In the event of resale or processing, the Purchaser herewith assigns to us any claim it may have against its customer in the amount of our claim and no further or formal declaration of assignment shall be necessary to this effect. We herewith accept the assignment. Irrespective of the assignment and our concurrent collection right, the Purchaser shall be entitled to collect monies pertaining to the assigned claim for as long as it fulfils its obligations resulting from the entire business relationship and it does not fall into financial crisis. The Purchaser shall transfer any monies collected to a separate account and keep it there on our behalf. Upon our request, the Purchaser shall communicate to us the data required for the collection of the assigned claim, including without limitation the name and the address of the debtor and also the exact description of the claim and the handing over of the required documents and notify its customers of the assignment.
 5. The Purchaser is not entitled to dispose in any way whatsoever of the claim previously assigned to us. It is specifically forbidden to record the claim previously assigned to us in a current-account relationship. The Purchaser is not entitled to enter into a factoring agreement with respect to the claim. Should, for any reason whatsoever and despite the above provision, the claim have been validly recorded in a current-account relationship, the Purchaser herewith assigns to us the claims it has with respect to the individual sums and also the right to terminate the current-account relationship.
 6. Should the value of the existing collateral exceed our claim by more than 20%, we shall, upon request of the Purchaser, release any such part exceeding our security interest.

IX. Claims for defect

Warranty on the part of the Supplier for defects as to quality or a defective title with respect to the delivery shall be as follows, and any other claims, subject to the provisions of Article X, shall be excluded:

Defects as to quality

1. Parts that prove to be defective due to circumstances having occurred prior to the passing of the risk shall, at the discretion of the Supplier, be repaired or replaced fault-free. Defects detected shall be notified to the Supplier forthwith and in writing. Replaced parts shall become the property of the Supplier.
2. Upon agreement with the Supplier, the Purchaser shall grant the Supplier the time and opportunity required for carrying out any repair work and/or replacements deemed required by the Supplier; otherwise the Supplier shall be released from its liability and any consequences thereof. Only in urgent cases putting at risk the safety of the works or, as the case may be, for the purpose of combating disproportionate damage -



GENERAL CONDITIONS OF SALE AND DELIVERY

whereupon the Supplier shall be notified forthwith - shall the Purchaser be entitled to remove the defect by itself or have it removed by a third party and claim from the Supplier compensation of the necessary cost incurred.

3. The Supplier shall bear - to the extent that the complaint is found to be justified – the direct cost for repair and/or replacement, including dispatch. It shall also bear the cost attributable to (dis)assembly and, if required in the individual case, the cost for skilled and unskilled labour, including travel expenses, provided that this would not result in an unreasonable burden for the Supplier.
4. To the extent provided for by law, the Purchaser shall have the right to withdraw from the contract if the Supplier, taking into account existing legal exceptions, lets expire an appropriate period set in which to carry out repair work or provide a replacement due to the defect as to quality without any results being provided. In the case of insignificant defects, the Purchaser's right shall be limited to a reduction of the contract price. The right to otherwise reduce the contract price remains excluded.
5. Any other claims shall be settled exclusively in accordance with Article X.2. hereof.
6. No liability is assumed in the following cases (without limitation):
Unsuitable or inappropriate use, defective installation and/or putting into operation by the Purchaser or third parties, normal wear and tear, inappropriate or careless treatment, faulty maintenance, unsuitable service fluids, defective construction work, unsuitable construction site, chemical, electrochemical or electrical influences, all for which the Supplier is not responsible.
7. The Supplier shall not be liable for consequences resulting from inadequate remedial work made by the Supplier or third parties. The same shall apply if the goods are altered without the Supplier's prior consent.

Defects in title

8. Should the use of the Goods result in an infringement of domestic industrial property rights or copyright, the Supplier shall, as a rule, at its own expense make available to the Purchaser the right to continue to use the Goods or to modify the Goods in a way reasonably acceptable for the Purchaser so that they do no longer infringe property rights. Where doing so would be disproportionately uneconomical or impossible within a reasonable period of time, the Purchaser shall be entitled to withdraw from the contract. Where the above pre-requisites apply, the Supplier shall be likewise entitled to withdraw from the contract. Furthermore, the Supplier shall hold the Purchaser harmless for all undisputed or non-appealable claims on the part of the holder of the industrial property right in question.
9. Subject to the provisions of Article IX No. 8 above, the Supplier assumes no other obligations than those stipulated in Article X No. 2 above with respect to property or copyright infringements. Claims exist only if:
 - the Purchaser notifies the Supplier of claims received with respect to infringed property rights or copyright without undue delay;
 - the Purchaser duly supports the Supplier in its defence against claims lodged, or as the case may be, in its efforts to carry through modification work pursuant to Article IX No. 8;



GENERAL CONDITIONS OF SALE AND DELIVERY

- all defensive measures, including out-of-court settlements, are decided by the Supplier;
- the defective title is not attributable to instruction of the Purchaser; and
- the infringement is not attributable to an unauthorised modification of the Purchaser or type of use not provided for in the contract.

X. Liability of the Supplier, exclusion of liability

1. If the Purchaser cannot use the Goods for the contractual purpose due to a fault of the Supplier attributable to omitted or incorrect proposals or advice given prior to or following the conclusion of the contract or through breach of other ancillary contractual obligations, including but not limited to, instructions for the operation and maintenance of the Goods, the provisions of Articles IX and X No. 2 shall apply *mutatis mutandis* and any other claims of the Purchaser shall be excluded.
2. The Supplier's liability for damage that has not occurred to the Goods themselves – based on whatever legal grounds - is limited to:
 - a. intent;
 - b. gross negligence on the part of the owner/management organs or executives;
 - c. cases where an injury or the death of a person is caused through negligence;
 - d. defects it has fraudulently concealed;
 - e. guarantee undertakings;
 - f. cases of defective Goods causing death, injuries or damage to property used privately pursuant to the Product Liability Act ("*ProdHaftG*").

In the case of a negligent breach of a fundamental condition of contract, the Supplier shall also be liable for gross negligence on the part of its non-executive staff and slight negligence, whereas in the latter case liability is limited to reasonably foreseeable damage which is intrinsic to the contract, and capped at the order price. Further claims are excluded.

XI. Prescription

All claims of the Customer shall - irrespective of the underlying legal reasons - be subject to a prescription period of 12 (twelve) months. Claims for damages pursuant to Art. X No. 2 lit. (a) to (d) and (f) shall be subject to the statutory prescription periods. They shall apply also to a defective structure/building or Goods that due to their customary type of application are used for a structure/building and have caused its defectiveness.

XII. Use of software

To the extent that software is included in the scope of delivery, the Purchaser is herewith granted the non-exclusive right to use the software and the documentations supplied. Its use is permitted with respect to the specific Goods. The software shall not be used on more than one system. The Purchaser shall be allowed to copy, revise or translate the software or convert the object code into the source code only as legally permitted by Sec. 69 et seq. of the German Copyright Act ("*UrhG*"). The Purchaser undertakes not to remove manufacturer identification labels - including, but not limited to copyright marks - without having obtained the prior express consent of the Supplier. All other rights to the software



GENERAL CONDITIONS OF SALE AND DELIVERY

and documentation, including any copies that may exist, shall remain with the Supplier and/or the software supplier. No sub-licences shall be granted.

XIII. Applicable law, venue

1. The legal relationship between the Supplier and the Purchaser shall be solely governed by the competent law of the Federal Republic of Germany applicable to the legal relationship of parties domiciled in Germany.
2. The venue shall be the court competent at the place of the Supplier's domicile. The Supplier, however, shall be entitled to bring an action against the Purchaser at the main domicile of the Purchaser.

XIV. Severability

Should one of the above provisions of these General Conditions for Sale and Delivery or of any additional stipulations agreed upon be or become invalid, the validity of the remaining part of these Conditions and the contract shall not be affected thereby. The contracting parties are then obliged to replace the invalid provision by another provision that approximates the purpose of the invalid provision and the the economic benefit pursued as closely as possible.

Modifications of, or amendments to, the contract require our written confirmation to be valid; this applies also to a waiver of the contractual writing requirement itself.