

Company Madlener Produktionssysteme GmbH & Co.KG

General Terms & Conditions of Sale

Company Madlener Produktionssysteme GmbH & Co.KG, hereafter referred to as „Supplier”.
Purchasing companies hereafter referred to as “Purchaser”.

1. Order Confirmation and Execution

Until point of order acceptance all offers remain subject to change. If the Purchaser's order differs from the Supplier's quotation then a contract is deemed valid and effective only upon order confirmation through the Supplier. Quotation data from the Supplier as regards content remain subject to change until complete clarification of all relevant technical, commercial and organisational enquiries.

Documentation and information submitted by the Purchaser which differs from the quotation respectively the order confirmation is not binding upon the Supplier unless expressly accepted in writing by the Supplier as part of the relevant order.

Any incurring additional costs, even in due diligence unforeseeable additional costs for execution of the order as well as content-related additional costs generated by the Purchaser shall be invoiced separately.

In case of the Supplier's obligatory delivery being delayed due to force majeure, legitimate strike, impossibility not through the Supplier's fault or one of its sub-suppliers, adversarial weather conditions, or due to Purchaser-related actions or conditions, then the agreed delivery time is extended by the duration of the delay. The Supplier reserves the right to claims for reimbursement of costs caused by Purchaser-related delays. Indemnity claims on part of the Purchaser are hereby excluded.

In the case of unforeseeable events as per item 1.4 provided these events significantly effect commercial conditions for the Supplier and in case of impossibility of order execution the Purchaser is reserved the right to withdraw from the contract either partially or completely.

The Purchaser is obliged to accept partial or advance deliveries.

Non-compliance with payment terms on part of the Purchaser relieves the Supplier from delivery obligations for duration of payment delay. The delivery date is met as soon as the goods to be supplied are ready for dispatch either at the Supplier's works or its sub-supplier's works, unless agreed otherwise between Purchaser and Supplier.

2. Warranty and Liability

Apparent defects shall be claimed in writing within one week after receipt of goods. In case of expiration of this time limit any warranty claims due to apparent defects are no longer enforceable. If the Purchaser carries out an acceptance test regards to delivered goods and deems these as free of defects, then any further warranty claim due to defects is hereby excluded. Material defect claims become time-barred after 12 months.

In case of legitimate defect claims the Supplier reserves the right to either remedy the defects or supply a replacement delivery on return of the rejected goods. Insofar the Supplier fulfils its obligations the remedy the defects, the Purchaser does not reserve the right to demand abatement of the purchase price or contract cancellation, provided that the remedy of defects is satisfactory.

The Supplier's liability for serial parts, which are circulated without prior inspection and verification by the Purchaser, is hereby expressly excluded.

Further claims of the Purchaser due to material defects as regulated per item 2 are hereby expressly excluded. The enforcement of consequential damages and claims for reimbursement of expenses and compensation from capital transactions are hereby expressly excluded.

Warranty and compensation due to damage in case of normal wear and tear, inappropriate treatment, force majeure or third party intervention are hereby expressly excluded.

3. Liquidated Damages

In case of order cancellation on part of the Purchaser prior to execution the Supplier reserves the right to invoice all order-related costs occurred up to point of cancellation and demand 10% of the complete order value as compensation. The Purchaser reserves the right to prove lesser damages.

4. Emolument

If contractual obligations are fulfilled by the Supplier emolument is payable upon submission of a twofold invoice within 14 days subject to 2% cash discount or within 30 days net, unless otherwise agreed in writing. The prices are exclusive of VAT. The prices are exclusive delivery costs and costs for packaging. Any deviation from this provision must be agreed upon in writing.

5. Payment

Payment shall be carried out as bank transfer to the Supplier's account or cash as per item 4. Payment by bill of exchange is only effective upon prior agreement in writing. Bills of exchange and cheques are only accepted as undertaking to pay but not in place of payment. The Purchaser is encumbered with note charges and note tax.

Offsetting against other undisputed or legally assessed claims is hereby expressly excluded.

The Supplier reserves the right to demand interest on arrears to the amount of 5% above the basic interest rate as stipulated per German Civil Code (BGB). Payment delay entails that all claims independent of date of payment are payable immediately by the Purchaser. The same applies in case of considerable decline of financial situation and over-indebtedness and insolvency of the Purchaser.

Unless otherwise agreed the Supplier reserves the right to claim appropriate instalment payment according to status of order execution.

6. Reservation of Title and Conformance

Until complete payment all delivered goods remain property of the Supplier

The Purchaser is obliged to immediately notify the Supplier of any distraint regards to any goods under reservation of title and to inform the lienor of the reservation of title. The Purchaser is not entitled to sell, give away, pawn or submit to cession by security any of the goods supplied to it under reservation of title.

If delivery is made for a business maintained by the Purchaser, then the supplied goods may be sold within the bounds of proper business conduct. In this case the Purchaser's claims to the buyer of the sold goods are assigned to the Supplier at the invoice amount of the goods supplied under reservation of title. In case of the goods being sold on credit to the buyer the Purchaser shall reserve the title of property. All rights and claims arising from this reservation of title towards the buyer of goods the Purchaser shall hereby assign to the Supplier.

The Supplier reserves freehold, copyright and intellectual property rights of all estimates, quotations, drafts, drawings, calculations and other documents, items and information. Without prior consent the use or copying of these items and this information or making these items and this information available to third parties is prohibited. In case of non-order these shall be returned to the Supplier promptly.

During transport the risk in the goods is transferred to the Purchaser as soon as the goods are submitted to a carrier regardless of who orders execution of transport.

In case of action or condition of the Purchaser delaying dispatch of goods the risk in the goods is transferred to the Purchaser by submission of notification of goods ready for dispatch.

If in case of Purchaser-related conditions storage of the goods becomes necessary, this storage proceeds at risk and cost of the Purchaser.

7. Severance and Jurisdiction

Should any provision of these Terms & Conditions be held invalid and unenforceable, such provision shall be severed and the remainder of the provisions hereof shall continue in full force and effect. In the case of both parties to this contract being registered merchants place of jurisdiction is exclusively the Supplier's business location.