

tecnoswiss®

Association of Machine and Tool Distributors

General Terms and Conditions for the sale and delivery of machinery and equipment

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1. Basic Contractual Principles

- 1.1 These general terms and conditions are a constituent part of every purchase contract. Any deviating terms and conditions must be agreed upon in writing. They take precedence over any purchase conditions of any buyer, except insofar as such purchase conditions are explicitly recognized by the vendor in writing as binding.
- 1.2 The contract is concluded by the signing of the purchase contract. In doing this, the buyer confirms that he is aware of the tecnoswiss general terms and conditions of sale and delivery.
- 1.3 If no contract, signed by both parties, exists, the contract is deemed to be concluded when the vendor confirms the order, following receipt of a verbal or written order, taking into account the necessary processing period (e.g. agreements with the supplier).
- 1.4 If, following receipt of a provisional order, the contract falls through, because the buyer specifies other conditions or specifications than those set out in the provisional order, the buyer undertakes to compensate the vendor for the inconvenience and loss incurred by the vendor as a result of the non-completion of the contract.
- 1.5 The details regarding weight, dimensions, capacities, prices, performance and similar, included in operating manuals, catalogues, brochures, circulars, advertisements, illustrations, price lists, etc., are not binding unless explicit written reference is made to these in the contract.
- 1.6 Plans, technical documents, etc., which are provided to the buyer before or after conclusion of the contract and which can be used for manufacture of the product or of individual parts to be supplied, remain the exclusive property of the vendor. The buyer is not permitted to use, copy or reproduce the same or make the same available to third parties without the explicit consent of the vendor. If the contract is not concluded, these documents must be returned to the vendor in full.
- 1.7 The extent of the delivery is determined by the contract. Any amendments or supplements must be made in writing, including customer-specific requirements for the processing of parts, particularly in terms of tolerances and manufacturing times.

2. Pricing / Payment Conditions

- 2.1 Prices are ex-supplier, exclusive of packaging, installation and any adaptations necessary to conform with Swiss, Cantonal or local regulations or the buyer's in-house regulations. The rights are reserved to deviating written agreements.

- 2.2 If costs of materials, wages or other constituted price factors of any kind (e.g. government measures) increase before the time of delivery (and also during delivery delays that are not the responsibility of the vendor), the prices applicable on the date ready for shipment will be charged. Any of the vendor's fixed price guarantees exclude only such price increases as can be attributed to an increase in costs of materials and labour.
- 2.3 If, as a result of changes to currency exchange rates, the vendor's cost price changes, the vendor is entitled to apply an appropriate surcharge.
- 2.4 Payment must be made in accordance with the agreed payment terms (and period) and in the agreed currency.
- 2.5 The purchase price or corresponding instalments is/are to be paid by the due date. Offsetting of any claims by the buyer, without any appropriate supplementary written agreement, is excluded. Pending objections due to defects do not absolve the buyer from the payment obligation contractually agreed upon.
- 2.6 If the buyer is late in making payment, the vendor is entitled to postpone fulfilment of his own obligations until the outstanding amount has been settled.
- 2.7 If the buyer defaults payment by the agreed due date, the buyer is deemed to be late in payment, even without a reminder, and the payment due is subject to a default interest of 3% above the base rate of the Swiss National Bank applicable at the time.
- 2.8 If the buyer is late in payment and ownership of the supplied item has not yet been transferred to the buyer, the vendor is entitled to withdraw from the contract and claim compensation for loss by a simple written notice. The rate of the compensation is:
- 100% of the agreed purchase price, if the item supplied has been newly developed for the buyer or made to specification or has been specially ordered and supplied for the buyer.
 - 30% of the agreed purchase price for all other types of items supplied.
 - The right to claim for additional demonstrable loss is reserved.
- 2.9 If the purchased item has already transferred to the ownership of the buyer and if the buyer is late in payment, the vendor is entitled to withdraw from the purchase contract or to demand immediate payment of the entire outstanding amount. If the vendor withdraws from the purchase contract, the buyer must immediately send the items purchased, carriage paid, to the vendor's place of business or, at the vendor's choice, to the manufacturer's place of business. Furthermore, the buyer is obliged to pay the vendor an appropriate compensation for loss of value of any kind as well as rent.. The compensation for the first year or part of a year of ownership by the buyer is 30% of the sale price, plus a further 15% for each additional year or part of a year. In addition to this, the rent is 1½% of the sale price per month or part of a month for the period that the contract items are held by the buyer. The costs of installation, dismantling, return travel, haulage, insurance and any other expenses will also be invoiced to the buyer. In the case of one-off productions, Section 2.8, paragraph 1 applies.
- 2.10 The buyer explicitly acknowledges the adequacy of these calculation principles (Sections 2.8, 2.9). In addition, the vendor reserves the right to claim

compensation for detectable greater wear and damage. Payments already made to the vendor will be deducted from the amount due.

3. Delivery Time

- 3.1 If the delivery date is not contractually agreed upon, the delivery time commences at the latest at the following times:
- Date of signing of the contract
 - Clarification of all technical and commercial details
 - Date on which the vendor receives a contractually payable deposit, which is due at the time of the order or on receipt of the order confirmation.
- 3.2 If the delivery is delayed on reasonable grounds, as set out in Section 6.1, that relieve either the buyer, the vendor or the supplier from their liability, the delivery time is extended by the duration of the delay thereby caused, and any obligation of the vendor for compensation for direct or indirect loss to the buyer is thereby nullified. Late delivery (regardless of the cause) does not entitle the buyer to withdraw from the contract.
- 3.3 With the proviso to any deviating written agreement, the risk is transferred to the buyer from the date of readiness for despatch. At the request of the buyer, the vendor will take out standard transport insurance cover at the expense of the buyer. Any further insurance is a matter for the buyer.
- 3.4 If the buyer fails to accept the delivery at the contractually agreed upon time, he is nevertheless required to make the payments dependent on the delivery dates, as though the delivery had been made. The vendor is obliged to make provision for the storage of the item to be delivered at the cost and risk of the buyer, after securing a minimum storage charge for 3 months storage.
- 3.5 If, in spite of a written reminder, the buyer fails to accept the delivery within a reasonable period, the vendor is entitled to withdraw from the contract and claim compensation for loss in accordance with Sections 2.8 and 2.9.

4. Conditions of Sale

- 4.1 The buyer acknowledges that until full and final payment has been made, the vendor remains the owner of the item purchased. The vendor is entitled to have the ownership reservation entered in the relevant ownership reservation register, without first obtaining the consent of the buyer. By signing the contract, the buyer gives his agreement in terms of Article 4 of the Order of the Federal German Court regarding the reservation of ownership rights.
- 4.2 The buyer is obliged to notify the vendor immediately of any change of the buyer's place of business.
- 4.3 The buyer is obliged to treat the item purchased properly, with all due care, and to undertake the standard maintenance and service as specified by the manufacturer.
- 4.4 Before taking ownership of the item purchased, the buyer is obliged to take out an insurance policy with a recognized Swiss insurance company against fire, storm and natural hazards, machine breakage, etc., until full and final payment has been made.

5. Guarantee

- 5.1 The faultless functioning of the item purchased is guaranteed by the vendor for a period of 12 months, calculated from the time of start up. The requirement for this is the proper, careful operation of the item purchased by the user.

The buyer is not entitled to withdraw from the contract as a result of faults subject to the guarantee, which the vendor makes every effort to rectify.

No guarantee is granted on second-hand machinery unless there are any deviating written agreements.. A claim can be made only on the condition that the buyer has fulfilled his contractual obligations and any defect is reported in writing immediately after detection. The vendor is given every opportunity to identify and correct the defect.

- 5.2 If the despatch is delayed for reasons that are not the responsibility of the buyer, the guarantee period is extended for the duration of the delay, in order that the buyer may benefit from the full period of guarantee protection.
- 5.3 If acceptance inspections take place at the suppliers or at the installation location, the provisions applicable to such inspections must be agreed upon in writing by the parties. Unless any other agreement is made, the general practice applied in the relevant industry in the manufacturing country applies to the acceptance inspection.
- 5.4 The guarantee period applies in relation to a daily operating time of 8 hours. If this time is exceeded, the guarantee period is reduced in proportion by the extent by which normal operating hours are exceeded, however with a maximum reduction of 3 months.
- 5.5 The vendor is required to rectify any reported defects as quickly as possible at his cost. At the vendor's request, the buyer provides all necessary assistance free of charge. If the defect cannot be repaired at the place of installation, the buyer must send the defective parts to the vendor for repair or replacement. The guarantee obligation of the vendor is deemed to have been fulfilled when the vendor returns the properly repaired part to the buyer or delivers a replacement part. The replaced (defective) part is the property of the vendor. A guarantee of 12 months is given on guaranteed spare parts, however does not extend the guarantee in relation to the entire item purchased.
- 5.6 Unless there are any other written agreements, the buyer is responsible for transporting the defective parts, repaired parts or spare parts between the place of installation and the manufacturer's works at the buyer's cost and risk.
- 5.7 The vendor's guarantee obligation does not extend to defects resulting from material supplied by the buyer or to a design specified by him.
- 5.8 The guarantee does not apply to defects caused by inadequate maintenance, incorrect installation by the buyer, modifications without the written consent of the vendor, inadequately executed repairs by the buyer, normal wear, use for other than the intended purpose, interference by third parties, influence by peripheral conditions affecting the installation and operation (e.g. foundations, temperature influences, vibrations, voltage fluctuations, etc.), non-compliance with works regulations.
- 5.9 If a guarantee claim proves to be unfounded, the costs associated with this will be borne by the buyer.

- 5.10 A charge will be made for all services that are neither explicitly guaranteed in the purchase contract nor subject to the guarantee. These are in particular:
- Programmer training and machine instruction;
 - Program maximization and production time per piece calculation for new tools (time studies);
 - Telephone advice and/or assistance outside the guarantee periods;
 - Expenditure for installation and commissioning of peripheral equipment and add-on units.
- 5.11 The contents of the guarantee coverage is listed in Section 5.5. It is deemed to be explicitly agreed that the vendor is not required to pay compensation for loss resulting from personal injury, for damage to property that is not the subject of the contract, for claims by third parties, for expenses of any kind or for loss of profit. No other claims of any kind whatsoever may be brought by the buyer or third parties against the vendor above and beyond claims for rectification of any defects on the item purchased, occurring during the guarantee period and demonstrably the responsibility of the manufacturer,.
- 5.12 The provisions of the Product Liability Act (PrHG) are explicitly reserved.

6. Reasons for discharge from liability

- 6.1 The following events are deemed to be reasons for discharge from liability of the vendor, buyer or the vendor's supplier, when the events occur after completion of the contract and are a hindrance to contract fulfilment: all circumstances independent of the will of the parties, which can be qualified as Force Majeur, e.g. war, industrial disputes, riot, fire, official seizure, embargo.
- 6.2 The party claiming a reason for discharge from liability must immediately notify the other party in writing about the occurrence and cessation of the same.
- 6.3 If the reasons for discharge from liability make contract fulfilment impossible within a reasonable period, each party has the right to dissolve the contract by a simple, written notification. In this case, the parties will reach an amicable agreement on the sharing of costs already incurred in the execution of the contract to that point. As costs in terms of this provision, only the reasonable, actual expenditure (not loss of profits) is understood. Each party must ensure that the expenditure is kept as low as possible. If, however, a delivery has already been made to the buyer, the expenditure of the vendor is deemed to be that part of the contract price that corresponds to this delivery.
- 6.4 Dissolution of the contract, for whatever reason, does not affect the loss of the rights of the parties that were created during the term of the contract until the dissolution of the contract.

7. Place of jurisdiction/applicable law

- 7.1 Judicial assessment of contractual disputes is subject to Swiss law.
- 7.2 The parties agree on the location of the headquarters of the vendor as the sole place of jurisdiction.

The German language version of this contract is binding in a court of law.