

Conditions of Sale, Delivery and Payment of MPK Special Tools GmbH, Hangendeinbacher Str. 4, D-73527 Schwäbisch Gmünd, Germany

(1) General provisions

The conditions of business apply to all present and future business relationships with other merchants. Any deviating, contradicting or supplementing general terms and conditions shall not form a component of the contract, even if we are aware thereof, unless we have consented to their applicability expressly in writing

Deviations from these conditions as well as verbal, telephone, electronic or telegraphic agreements etc., including written determinations made by our agents or representatives, are only of a preliminary character and must be confirmed by us in writing in order to be binding.

(2) Conclusion of contract

Our offers are subject to confirmation. Technical changes as well as changes in form, colour and/or weight are reserved within reasonable limits.

We are entitled to accept the contractual offer made in the order within two weeks after receipt by our company. Acceptance can be declared either in writing or by the delivery of goods to the customer. When goods are ordered electronically, we will acknowledge receipt of the order immediately. The acknowledgement of the receipt does not constitute a binding acceptance of the order. The acknowledgement of the receipt can be combined with the declaration of acceptance.

Conclusion of the contract is subject to the reservation that we receive correct and punctual deliveries from our suppliers. This only applies in the event that we were not responsible for non-delivery, in particular when a cover transaction has been concluded with our supplier. The customer will be notified immediately of non-availability of the service. Any payments are reimbursed without delay.

If orders are placed electronically, the contractual wording is saved by us and sent to the customer on request, including the present terms and conditions by e-mail.

(3) Delivery periods

Scheduled delivery periods are non-binding, unless we have confirmed them as binding in writing.

The delivery period commences with the written acknowledgement of order. The delivery period is complied with if the object of delivery has left our factory or if the customer has been notified of readiness for dispatch by the expiration of the period.

In the event of force majeure or other unforeseeable impairments such as riots, plant disorders, strikes, lockouts, incorrect or non-punctual delivery from our suppliers, default of delivery does not occur. In these cases, the delivery period shall be extended accordingly or we may cancel the contract. This shall also apply if we were in default when the aforementioned circumstances arose. Any losses already incurred and to be reimbursed to the purchaser, if applicable, shall not be affected. In the event of a default of delivery on our part, the purchaser may grant a reasonable grace period by stating that it will refuse acceptance after the end of this period. After the unsuccessful expiry of this grace period, the customer may cancel the contract by way of a written notice or, in the event of intent or negligence on our part, claim damages due to non-performance. The claim for delivery is excluded in these cases.

(4) Passing of risk

The risk of accidental loss or deterioration of the goods passes to the customer upon delivery, in the event of a sale by dispatch, upon the delivery of the goods to the forwarding company, to the carrier or to the person or institution engaged with performing the shipment. Delivery is also deemed to be effected if the customer is in delay with acceptance.

All shipments are effected at the cost and risk of the customer. Even in the case of agreed prepaid delivery the goods are shipped at the risk of the customer. If delivery freight prepaid has been agreed, we are nevertheless entitled to dispatch the goods freight not prepaid, but in this case the customer is entitled to reduce the invoice amount by the freight paid. If the customer has not provided specific shipping instructions, we will select the cheapest route of transportation and the most economical type of transportation pursuant to our best discretion. Unless otherwise agreed explicitly, we are entitled to make part deliveries.

(5) Minimum order value, handling fees, excess/short quantities, minimum order quantity

The minimum order value amounts to € 100 net. We charge the following handling fees for small-volume orders outside Germany (customs form, issue of customs documents, banking charges):

- to € 100 net per order and delivery: € 25
- to € 250 net per order and delivery: € 15
- to € 500 net per order and delivery: € 10

For an order quantity of up to 10 items, the delivery quantity tolerance is +/- one item. For more than 10 items, the delivery may deviate from the ordered quantity by 10% plus or minus. The minimum order quantity for special tools is 2 items. If the minimum order quantity is not fulfilled, we may invoice a surcharge.

(6) Notices of defects

Notices of defects regarding apparent defects or transportation damage are to be given immediately in writing, but at the latest within a preclusive period of two weeks from delivery or acceptance; apparent defects that cannot be detected within this period in spite of a careful examination are to be notified in writing immediately, but at the latest within two weeks after determination of the defect, and within a preclusive period of a year from the delivery or acceptance.

(7) Warranty/limitations of liability

We initially offer, at our option, warranty by rework or substitute delivery for any defects in the goods. If subsequent performance fails, the customer may demand, at its option, reduction of the purchase price (diminution) or cancellation of the contract (rescission). However, in the event of a minor breach of contract, in particular in the event of minor defects, the customer has no right of rescission.

If the customer opts for rescission of the contract due to a defect of title or defect of quality, after subsequent performance has failed, the customer is not entitled to damage claims due to the defect in addition. If the customer opts for damages, after subsequent performance has failed, the goods shall remain with the customer, if this can be tolerated by the customer. Damages shall be limited to the difference between the payment and the value of the defective goods. This provision shall not apply if the breach of contract is due to fraudulent intent on our part.

The warranty period shall be one year from delivery of goods. This does not apply if the customer has failed to notify us of the defect in due time (clause 6 of these provisions).

Only the product description is deemed to be agreed as the good's quality. Public statements, promotional information or advertisements do not represent a contractual quality of the goods.

In the event of defective installation instructions we are only obliged to provide defect-free installation instructions and only if the defect in the installation instructions prevents proper installation.

We do not give any guarantees in the legal sense. Manufacturer guarantees shall not be affected.

In the event of slightly negligent violations of duties, our liability shall be limited to the direct average damage, foreseeable based on the type of goods and typical for such contracts. This shall also apply to slightly negligent violations on the part of our legal representatives or agents. We are not liable for a slightly negligent violation of immaterial contractual duties.

The above mentioned limitations of liability do not relate to any claims of the customer arising from product liability. In addition, the limitations of liability are not applicable to damage due to the violation of life, limb or health resulting from an intentional or negligent breach of duty on our part as well as for other damage that is due to an intentional or grossly negligent breach of duty on our part. The customer's

damage claims due to a defect shall be statute-barred after one year from delivery of goods. This provision shall not apply if we can be blamed for malice.

(8) Prices

Unless otherwise agreed in writing, all prices are ex works euro prices, plus applicable statutory VAT, excluding packaging.

The list prices valid on the delivery date shall apply if more than four months have passed since conclusion of the contract.

If a contract contains the conditions "freight prepaid" or "duty prepaid" and freight or customs duties are increased after contract conclusion, these additional costs shall also be borne by the customer.

(9) Terms of payment

We grant 2 % discount when payment is made within ten days from the invoice date as well as for cash in advance and cash on delivery. For payment within 30 days from the invoice date, the net invoice amounts shall apply. No discount is granted on payment by bill of exchange. In addition, no discount is granted on contract work.

Bills of exchange and cheques are accepted only after special agreement and on account of payment, whereby all resulting collection and discount expenses are charged to the customer. We do not assume any warranty for punctual submittal or provision of bill protests.

In the event of late payment, we charge interest on arrears of 8 % above the base rate. We explicitly reserve the right to claim additional damage due to delay. If we learn of a considerable deterioration of the customer's economic situation since the date of contract conclusion, we may demand security or advance payment or cancel the contract. In these cases as well, we explicitly reserve the right to claim further damage.

Payments are to be made directly to us; our sales agents are not entitled to accept payments.

(10) Right of offsetting/retention

The customer has no right of offset or retention, except if its counter-claims are legally determined or undisputed. We have a right of retention in our performance until all previous shipments have been paid. The customer may only exercise a right of retention if its counterclaim is based on the same contractual relationship.

(11) Reservation of title

We reserve title to the goods until full payment of all claims resulting from the current business relationship.

During the reservation of title, the customer is obliged to treat the goods with due diligence and care. If any maintenance and inspection work is necessary, this shall be performed by the customer at its own cost.

The customer is obliged to notify us immediately when third parties exercise any rights against our property, for example in the event of attachment, and of possible damage to or destruction of our property. In the event of reservation of title, the customer shall notify us immediately if the possessor of the goods changes or if the customer's residence changes.

In the case of a violation of the contract on the part of the customer, in particular in the case of late payment or breach of duty, we are entitled to cancel the contract and to demand return of our property.

The customer shall be entitled to resell the goods within its normal course of business. It shall assign to us right now all claims in the amount of the invoice amount, which it accrues towards third parties due to the resale of the goods. We herewith accept the assignment. After the assignment, the customer shall be entitled to collect the claim. We reserve the right to collect the claim ourselves as soon as the customer does not fulfil its payment obligations and is in default of payment.

The processing of the goods by the customer is always effected in our name and on our behalf. If the goods are processed with other objects which are not our property, we shall acquire co-ownership in the new object in proportion of the value of the goods delivered by us to the other objects processed. The same shall apply if the goods are combined with other objects which are not our property.

If the third-party purchaser makes payment to our primary debtor, the latter is the trustee of the amounts received and has to hold them in custody separately and make payment in the amount of our credit balance. This applies accordingly to the delivery of consignment goods. The customer is obliged to notify us immediately of any interventions of third parties in the goods delivered by us. The cost of intervention shall be borne by the customer.

(12) Assignment

We may assign our claims against our customers to third parties without customer's consent.

(13) Returns, credit notes for goods

The customer may return any goods that are free of defects or have not been complained about on time only after prior written agreement with us, whereby customised goods are not taken back as a rule. We are entitled to refuse acceptance of return shipments freight not prepaid.

Where a credit note for goods is granted outside the warranty, the credited amount results from the amount of the original invoice less 15% handling charges or 15 euro as a minimum handling fee. If goods are returned due to a credit note agreement, the customer shall bear the resulting costs.

(14) Miscellaneous provisions

Our previous express written consent is necessary for reprinting the content of our price list or our catalogues as well as our figures or drawings.

(15) Place of performance/place of jurisdiction

The place of performance as regards our services is our registered office. The exclusive place of jurisdiction for all disputes arising from this agreement is our registered office. The same shall apply, if the customer does not have a general place of jurisdiction in Germany or if its residence or permanent address is not known at the time of commencement of an action.

(16) Applicable law

The contractual relationship shall be subject to the law of the Federal Republic of Germany. The provisions of the UN Convention on Contracts for the International Sale of Goods shall not be applicable.

(17) Severability

If individual provisions of the contract with the customer, including these General Terms and Conditions, are or become totally or partially invalid, the validity of the remaining provisions shall not be affected. The provision, which is totally or partially invalid, shall be replaced by a provision, whose commercial success comes as close as possible to that of the invalid provision.