

General Terms and Conditions of Sale and Delivery of FEY & Co. GmbH

1 General information

The following General Terms and Conditions of Sale and Delivery shall apply exclusively to the delivery of our products, unless otherwise agreed in writing or confirmed by us. These conditions are equally binding for contracts for the supply of goods and for the performance of repairs. General terms and conditions contradicting our General Terms and Conditions of Sale and Delivery shall not be accepted. Their validity is expressly contradicted. Silence on our part on the transmission of the buyer's general terms and conditions of business shall not be regarded as consent to the inclusion of the buyer's general terms and conditions of business. Our terms and conditions of sale and delivery as amended from time to time, insofar as they have once been effectively agreed, shall also become an integral part of all future contracts in current business relations, without any express reference being required in individual cases, even if deviating agreements have been reached for individual transactions. These terms and conditions also apply to business and sales abroad.

2 Offers

Our offers are non-binding. We are only bound to verbal agreements after further written confirmation. Declarations by our employees, travelers or commercial agents require our written confirmation to be effective. Samples, sketches, drafts, technical data, weights and colours etc. are only approximate.

3 Shipment, passing of risk

Delivery shall be made at our discretion by a normally suitable means of transport and at the Buyer's expense, plus packaging and insurance costs, unless the goods cannot be delivered by a suitable means of transport.

from our current price list. Transport insurance will only be taken out at the express request of the buyer.

Deliveries are always made - even if we bear the freight costs - at the risk of the buyer, unless we carry out the transport with our own vehicles and personnel and the damage is not caused by third parties. The provisions under § 11. c) to e) of these terms and conditions shall apply to any claims for damages against us resulting therefrom. The risk passes to the buyer when the goods are handed over to the post office, the parcel service, the forwarding agent or the carrier, but at the latest when they leave the factory or warehouse. This also applies in particular to sales where CIF, CFR, FAC, FAS or FOB have been agreed.

For deliveries abroad, special shipping conditions apply, which please ask for.

If acceptance is delayed in the case of self-collection for reasons for which we are not responsible, the risk of accidental loss shall pass to the customer upon receipt of notification of readiness for dispatch. Deliveries within Germany with a net value of more than 400 EUR are free of shipping and packaging costs to the place of destination.

4 Delivery periods

a) The specification of delivery periods is generally non-binding, unless an express agreement on a fixed date has been made in writing. Furthermore, our delivery periods are subject to our own supply, the possibility of delivery and intermediate sales. The delivery period begins on the date of our order confirmation, but not before complete clarification of all execution details.

b) The delivery period is met with the timely notification of readiness for dispatch if dispatch is impossible for us through no fault of our own. The day of dispatch shall be deemed the day of delivery; in the case of agreed collection, the day of dispatch of the notification of readiness for dispatch.

If we do not meet our delivery obligation on time in this case, the buyer is entitled to withdraw from

the contract after expiry of an additional period of two weeks to be set by him in writing and under threat of refusal.

c) In the event of delays in delivery due to force majeure, riot, dispute, lockout or operational disruptions for which we are not responsible, including those of our suppliers, the performance period shall be extended by the period until the disruption has been remedied, insofar as the disruption has an influence on the production or delivery of the goods. We will inform the buyer as soon as possible of the beginning and end of such obstacles. In the event of permanent operational disruptions for which we are not responsible, which also include the case that we are not supplied by our suppliers through no fault of our own, both the purchaser and we have the right to withdraw from the contract in whole or in part to the exclusion of any claims for compensation. Malfunctions are permanent if they last for at least two months.

d) Claims for damages against us from the point of view of delay in delivery can only be asserted under the conditions of § 11 c) to e) below.

5 Partial delivery

We are entitled to make partial deliveries. The buyer is obliged to accept partial deliveries. If we are in default with the delivery of the still outstanding parts and a grace period of two weeks to be set by the buyer in writing has expired without result, the buyer can only withdraw from the entire contract if the missing parts cannot be procured elsewhere and the delivered parts alone are not of interest to the buyer.

6 Prices, terms of payment

Unless otherwise agreed in writing, the prices of FEY & Co. on the day of receipt of the order are solely applicable. The validity of the price list expires with the publication of the new price list. All our prices are net prices plus statutory value-added tax excluding packaging, freight, customs and other ancillary costs. Unless otherwise agreed, invoices are payable within 10 days with 4 % discount or within 30 days net cash. Discounts may only be deducted if the purchaser's account with us does not show any overdue invoice amounts. Unjustified discounts will be demanded later.

Bills of exchange and cheques are only accepted, if at all, on account of performance and subject to the possibility of discounting. All expenses incurred are to be borne by the buyer, as are bank charges and expenses in the event of non-redemption of bank debits. The acceptance of a bill of exchange after maturity or renewal does not constitute a deferral. We reserve the right to return bills of exchange or cheques at any time. payments to third parties, in particular commercial agents or Travellers will not be recognised unless these persons are expressly authorised to collect payments.

7 Default in payment

If the buyer is in default with a payment, we are entitled, without special proof, to claim default interest of 9% plus the respective legal base interest rate (§ 247 BGB) but at least 12.5% p.a. and to charge reminder fees of 40.00 EUR (according to § 288 para. 5, sentence 1 BGB) for each reminder after default. We reserve the right to assert higher default damages in individual cases. If the buyer does not fulfil his payment obligations or lets a bill of exchange or cheque go to protest or if other circumstances become known which endanger the fulfilment of the buyer's obligation towards us, all our claims from the business relationship become due immediately irrespective of previously agreed payment terms. Outstanding deliveries on our part to the buyer can then be made by us cash on delivery or made dependent on the provision of suitable securities, until whose performance our delivery obligation is suspended. The buyer is entitled to pay in advance instead of a suitable security. If the required security is not provided within one week, we can withdraw from the contract. If partial payments have been agreed, the respective remaining amount is due immediately if the buyer is in arrears with an instalment payment of more than 8 days.

8 Set-off, right of retention

Offsetting against our claims is only permitted with undisputed or legally established claims of the buyer. The right of retention due to other claims of the buyer against us not originating from the same contractual relationship is excluded.

9 Retention of title

We reserve title to all goods delivered by us (goods subject to retention of title) until the purchase price has been paid in full and until all our claims arising from the business relationship have been paid. The buyer is entitled to further process and resell the goods in the ordinary course of business as long as he is not in default with the fulfilment of his obligations towards us or ceases his payments. The following applies in detail:

The processing or transformation of the reserved goods is carried out for us as manufacturer within the meaning of § 950 BGB without obliging us. By processing or altering the reserved goods, the buyer does not acquire ownership of the new item in accordance with § 950 BGB (German Civil Code). If the reserved goods are processed, mixed, blended or combined with other items, we shall acquire co-ownership of the new item in a proportion corresponding to the invoice value of our reserved goods to the total value.

The provisions applicable to the reserved goods shall apply mutatis mutandis to the co-ownership shares arising under the above provisions. The buyer hereby assigns to us the receivables from the resale or other sales transactions, e.g. contracts for work and services with all ancillary rights, even to the extent that the goods have been processed, mixed or blended or combined or permanently installed and we have acquired co-ownership thereof in the amount of our invoice value. Insofar as the reserved goods are processed, mixed, blended, connected or firmly installed, we shall be entitled from this assignment to a corresponding fraction of the respective claim from the resale in relation to the invoice value of our reserved goods to the invoice value of the item.

If the reserved goods are sold by the buyer together with other goods not delivered by us, the buyer hereby assigns to us a share of the claim from the resale in the amount of the actual value of our reserved goods. If the buyer has sold this claim within the framework of genuine factoring, he hereby assigns to us the claim against the factor taking its place. If the claim from the resale by the buyer is placed in a current account relationship with his customer, the buyer hereby assigns his claims from the current account relationship to the buyer.

in the amount of the invoice value of the reserved goods. We accept the above assignments here. The buyer is entitled to collect the claims assigned to us until revoked by us.

The authorization to collect expires in the event of revocation, which occurs in the event of default of payment by the buyer or suspension of payment by the buyer. In this case we are authorized by the buyer to inform the customers of the assignment and to collect the claim ourselves. Upon request, the buyer is obliged to provide us with an exact list of the claims to which the buyer is entitled, including the names and addresses of the customers, the amount of the individual claims, invoice date, etc., and to provide us with all information and documents necessary for asserting the assigned claims and to allow us to check this information.

Pledging or transfer by way of security of the reserved goods or the assigned claims is not permitted. We are to be notified immediately of attachments, stating the garnishment creditor. If the realisable value of the securities to which we are entitled exceeds our total claim against the purchaser by more than 10 %, we shall be obliged to release such securities at the purchaser's request.

The buyer shall keep the reserved goods in safe custody for us free of charge. He must insure them against usual risks such as fire, theft and water to the usual extent. The buyer hereby assigns to us his claims for compensation to which he is entitled from damages of the type mentioned against insurance companies or other persons liable for compensation in the amount of our claims. We, the company FEY & Co. accept the assignments.

10 Duty to examine and give notice of defects

Our deliveries, including drawings, implementation plans, project planning proposals, etc., must be checked by the customer immediately upon delivery for their usability and correctness.

Obvious defects must be notified to us in writing immediately, but at the latest within 6 days after arrival at the destination, stating exactly the concrete complaints.

The customer must also give written notice of hidden defects immediately after discovery, but at the latest within 6 days after discovery.

In the case of direct delivery of the goods to third parties, the aforementioned complaint periods shall be extended to 14 days.

If the customer does not comply with the aforementioned obligations, any warranty claims are excluded. This does not apply to cases of damage resulting from injury to life, body or health which are based on an intentional or negligent breach of duty by us or a legal representative or vicarious agent of us. It also does not apply if any other damage is based on intent or gross negligence.

11 Claims for material defects as well as claims for damages and withdrawal due to other breaches of duty

a) In the event of justified complaints, subsequent performance shall be effected at our discretion by repair or replacement if the legal requirements for this have been fulfilled. In addition, the buyer is entitled to further legal claims for withdrawal from the contract and reduction, provided that the legal requirements for this are fulfilled. 377 HGB remains unaffected.

b) If, by way of exception, the purchaser has recourse claims under the statutory provisions in accordance with 478 BGB, these only exist insofar as the buyer does not grant his customer any rights that go beyond the statutory rights due to material defects.

c) claims for damages of the buyer, exist according to the legal regulations in unlimited

the amount if they are based on injury to life, body or health and they are caused by an intentional or negligent breach of duty by us, one of our legal representatives or vicarious agents, or

are based on the Product Liability Act or

are based on an intentional or grossly negligent breach of duty by us, our legal representatives or vicarious agents or

be based on malice or

we have assumed a procurement risk or a guarantee and are therefore liable.

d) If damage is based only on negligent breach of a material contractual obligation (cardinal obligation) by us, our legal representatives or vicarious agents, we shall also be liable for damages, but limited in amount to the typically arising and foreseeable damage, unless we are liable without limitation in accordance with Section b) of this paragraph.

e) Essential contractual obligations (cardinal obligations) within the meaning of the above provisions are obligations whose fulfilment is essential for the proper execution of the contract and on whose compliance the purchaser may regularly rely. Furthermore, essential contractual obligations (cardinal obligations) are those whose violation endangers the achievement of the purpose of the contract. The statutory distribution of the burden of proof remains unchanged. Further claims for damages against us, our legal representatives and vicarious agents as well as vicarious agents are excluded, on whatever legal grounds they are based.

12 Limitation of claims for material defects

Claims of the buyer due to material defects become statute-barred after one year, unless,

a) it concerns claims of the kind regulated in § 479 BGB or

b) the defect was fraudulently concealed or is based on an intentional breach of duty by us or our legal representatives or our vicarious agents.

In cases a) and b) and for claims for damages which are not excluded according to item 11 of these conditions, the statutory limitation periods shall apply.

The statutory provisions on suspension, suspension of expiry and the recommencement of the limitation period shall remain in force.

13 Right of withdrawal

Unless otherwise agreed, the buyer may withdraw from the contract if the object of purchase is defective and the statutory conditions for withdrawal (in particular § 440 BGB) are fulfilled. In the event of a breach of duty which does not consist of a defect in the object of purchase, the purchaser may only withdraw from the contract if we or our legal representatives or vicarious agents are responsible for the breach of duty and the statutory conditions for withdrawal are fulfilled. The statutory distribution of the burden of proof remains unchanged. Point 4. c) of these conditions remains unaffected. In other cases (e.g. inadvertent wrong order or other motive errors of the buyer) the buyer can cancel the contract or withdraw from it only with our express consent.

There is no right to consent to the rescission. In the event of our consent, the goods must then be provided with our article number and returned to us (FEY & Co. GmbH, Rheiner Str. 145, 48282 Emsdetten) carriage paid and in their original packaging. In these cases, the return is always at the buyer's risk. We charge a handling fee of 10% of the order value, but at least 25.00 €, unless otherwise agreed in the contract. If we have already purchased material for custom-made products in these cases, this shall in any case be borne by the purchaser in addition to cost price, unless otherwise agreed in individual cases.

14 Lump-sum damages

If the purchaser expressly or impliedly refuses to fulfil the contract and in particular the acceptance of the subject matter of the contract without justifying reason, FEY & Co. may, after further written request and under threat of refusal with a period of 10 days instead of the fulfilment of the contract, demand a lump-sum compensation amounting to 25% of the order sum. We reserve the right to claim higher damages.

15 Disposal of waste electrical and electronic equipment

The customer assumes the obligation to properly dispose of the delivered goods after termination of use at his own expense in accordance with the statutory provisions. In the event of a transfer, he must impose a corresponding further obligation.

16 Data protection

All personal data will be treated confidentially. The data necessary for the processing of the transaction is stored and, if necessary, passed on to affiliated companies within the framework of order processing. The passing on and use of the data only takes place as it is necessary for the execution of the concluded transaction and the maintenance of the resulting customer relationship, is legally permissible and desired by the customer. During data processing, customer interests worthy of protection are taken into account in accordance with the statutory provisions.

The following applies to end consumers:

The European Commission provides a platform for out-of-court online dispute resolution (OS platform), available at www.ec.europa.eu/consumers/odr You can find our e-mail address in the imprint of our website www.fey.de. We are neither obliged nor prepared to participate in the dispute settlement procedure.

17 Applicable Law, Costs of Enforcement Abroad

a) These terms and conditions also apply to business and sales abroad. The contractual relationship shall be governed exclusively by the substantive law of the Federal Republic of Germany. The applicability of international laws, e.g. the UN Sales Convention, is excluded.

b) If we have to take legal action or enforcement measures abroad, the buyer undertakes to assume all judicial and extrajudicial costs, including the costs of legal assistance or such costs arising from the assignment of a debt collection company, insofar as our claims are justified.

18 Place of performance, place of jurisdiction

The place of performance for all claims arising from contractual relations between us and the buyer is Emsdetten. Place of jurisdiction is Emsdetten, if the buyer is a merchant, a legal entity under public law or a public special fund. We also reserve the right to make claims against the buyer at his general place of jurisdiction. The aforementioned place of performance and jurisdiction shall also apply to contracts with foreign contractual partners.

As of July 2018