

General Sales Conditions of FF Fluid forming GmbH (09/2016)

§ 1 General Aspects – Scope of Application

- (1) Our General Sales Conditions shall apply exclusively; we do not accept any customer's terms and conditions deviating from or contrary to our General Sales Conditions unless the application of such terms and conditions has been expressly approved by us in writing. Our General Sales Conditions will also apply when we perform delivery to the customer without reservation although we are aware that some of the customer's terms and conditions are contrary to or different from our General Sales Conditions.
- (2) Any agreements made between us and the customer for the purpose of executing this contract are recorded in writing in this contract.
- (3) Our General Sales Conditions apply only to companies as defined by § 310, subsection 1, of the German Civil Code (BGB).

§ 2 Offer – Offer Documents

- (1) If the order qualifies as an offer in accordance with § 145 of the German Civil Code (BGB), we can accept it within two weeks.
- (2) We reserve the ownership / copyrights of pictures, drawings, calculations and other documents. This also applies to written documents that are marked as "confidential". The customer must obtain our express written consent for the transfer to a third party.

§ 3 Prices – Terms of Payment

- (1) Unless otherwise stated in the order confirmation, our prices apply "ex works", excluding packaging; this will be invoiced separately.
- (2) The legally required VAT is not included in our prices; it will be added separately on the day the invoice is issued at the legally required amount.
- (3) Any deduction of discount requires a separately written agreement.
- (4) Unless otherwise stated in the order confirmation, the net sales price (with no deduction) is payable within 30 days from the date of invoice. All legal obligations relating to the consequences of late payment apply.
- (5) The customer will be only entitled to set-off claims if its counterclaims are legally established as final and absolute, uncontested or recognised by us. Moreover, the customer is authorised to exercise a right of retention only in so far as its counterclaim relies on the same contractual relationship.

§ 4 Delivery Period

- (1) The beginning of the delivery period indicated by us requires the clarification of all technical questions.
- (2) Compliance with our delivery obligations further requires the timely and correct fulfilment of the customer's obligation. We reserve the right of defence pertaining to non-performance of the contract.
- (3) If the customer is in default of acceptance or otherwise infringes other duties to cooperate, we are entitled to demand compensation for the damages that arise for us, including possible additional



expenses. We reserve the right to make further claims or enforce further rights.

- (4) If the preconditions of subsection (3) are met, the risk of an accidental loss or the accidental deterioration of the purchased item shall pass to the customer at the moment where it is in default of acceptance or payment.
- (5) We shall be liable in accordance with statutory provisions insofar as the fundamental contract of sale and purchase is a fixed date purchase as defined in § 286, subsection 2 item 4, of the German Civil Code (BGB) or § 376 of the German Commercial Code (HGB). We shall also be liable in accordance with statutory provisions insofar as the customer is entitled to claim that he is no longer interested in the further fulfilment of the contract in consequence of a delay in delivery for which we are responsible.
- (6) We shall be liable in accordance with statutory provisions insofar as the delayed delivery is based on an intentional or grossly negligent breach of contract for which we are responsible; fault of our representatives or agents shall be imputed to us. Insofar as the delay in delivery is based on a grossly negligent breach of contract for which we are responsible, our liability for damages shall be limited to the foreseeable typically occurring damage.
- (7) We shall also be liable in accordance with statutory provisions insofar as the delay in delivery for which we are responsible was caused by the culpable breach of a substantial contractual obligation; in this case, our liability for damages shall however be limited to the foreseeable typically occurring damage.
- (8) Further statutory claims and rights of the customer are reserved.

§ 5 Shipment - Transfer of Risk – Packaging Costs

- (1) Unless otherwise stated in the order confirmation, “ex works” delivery is agreed.
- (2) Special agreements shall apply to the return of packaging.
- (3) If desired by the customer, we shall take out a transport insurance policy for the shipment; the customer shall pay the costs incurred.

§ 6 Liability for Defects

- (1) Claims for defects by the customer presuppose that the latter has duly complied with his obligations to inspect and give notice of defects pursuant to § 377 of the German Commercial Code (HGB).
- (2) Insofar as the purchased item has a defect, the customer shall be entitled, at its choice, to subsequent performance through elimination of the defect or delivery of a new item free of defects. In the event of the elimination of the defect or a substitute delivery, we shall be obliged to pay any expenses required for the subsequent performance, in particular the costs of transport, freight, labour and materials insofar as these are not increased by the purchased item having been brought to a location other than the place of performance.
- (3) If the subsequent performance is unsuccessful, the customer shall be entitled, at his own choice, to demand rescission or a price reduction.
- (4) We shall be liable in accordance with statutory provisions insofar as the customer claims damages that are based on intention or gross negligence, including intention or gross negligence on the part of our representatives or vicarious agents. Unless we are accused of an intentional breach of contract, liability for damages shall be limited to the foreseeable typically occurring damage.



- (5) We shall be liable in accordance with statutory provisions insofar as we culpably infringe a substantial obligation of the contract; in this case as well, liability for damages shall be limited to the foreseeable typically occurring damage.
- (6) Moreover, insofar as the customer is entitled to claims for damages instead of the entire fulfilment due to negligent infringement of an obligation, our liability for damages shall be limited to the foreseeable typically occurring damage.
- (7) Liability for culpable injury to life and limb or health remains unaffected by these clauses; this shall also apply to mandatory liability in accordance with the Product Liability Act.
- (8) Unless stated otherwise above, liability shall be excluded.
- (9) The period of limitation for claims for defects is 24 months from the date of transfer of the risk. This shall not apply insofar as the purchased item is typically used for a building and has caused the defect.
- (10) The period of limitation in case of claims asserting a right of recourse for deliveries in accordance with § 478 and §479 of the German Civil Code (BGB) remains unaffected by these clauses; it shall not exceed five years, calculated from the date of delivery of the defective item.

§ 7 Joint Liability

- (1) Any further liability for damages other than that set forth in §6 is excluded irrespective of the legal nature of the claim submitted. This shall particularly apply to claims for damages due to negligence in contracting, due to other infringements of obligations or because of claims in tort for compensation for material damage in accordance with § 823 of the German Civil Code (BGB).
- (2) The limitation according to subsection (1) also applies insofar as the customer demands compensation for useless expenses in place of a claim for damages instead of the entire fulfilment.
- (3) Insofar as claims for damages against us are excluded or limited, this shall also apply with regard to the personal liability for damages of our employees, associates, representatives and vicarious agents.

§ 8 Retention of Title

- (1) We reserve ownership of the purchased item until all payments resulting from the delivery contract have been received. In the event that the customer breaches the contract, in particular in the event of a delay in payment, we shall be entitled to take back the purchased item. Our taking back of the purchased item shall constitute a rescission of the contract. After taking the purchased item we shall have the right to exploit it and the exploitation proceeds shall be set off against the customer's obligations, less reasonable costs of exploitation.
- (2) The customer shall be obliged to take care of the purchased item; the customer is in particular obliged to insure it at a sufficient replacement value at his own expense against damage by fire, water and theft. Insofar as maintenance and inspection work is necessary, the customer must carry it out in due time at his own expense.
- (3) The customer shall immediately inform us in writing of seizures or other interventions by third parties so that we can institute proceedings pursuant to §771 of the Rules of Civil Proceedings (ZPO). Insofar as the third party is unable to reimburse us for the legal costs and out-of-court expenses of proceedings in accordance with §771 of the ZPO, the customer shall be liable to us for the loss we suffer.
- (4) The customer shall be entitled to sell the purchased item to another party in the due course of busi-



ness; however, the customer hereby assigns to us in advance all claims against his buyers or third parties that accrue to the customer from the resale in the amount of the final invoice amount (including VAT) of our claim, irrespective of whether the purchased item was sold without or after further processing. The customer will remain entitled to collect the assigned claims even after the assignment. Our authority to collect the debts ourselves will remain unaffected by this. However, we agree not to collect the debts as long as the customer complies with its payment obligations from the proceeds received, does not delay any payment and, in particular, no petition for the opening of settlement or bankruptcy proceedings has been submitted and payments have not been suspended. However, if this is the case we can request that the customer informs us of the assigned claims and their debtors, provides all the information necessary for collection, hands over the appropriate documents, and notifies the debtors (third parties) of the assignment.

- (5) Processing or reshaping the purchased item by the customer shall always be done for us. If the purchased item is processed with other objects that are not our property, we will acquire joint ownership of the new object at the ratio of the value of the purchased item (final amount of the invoice including VAT) to the other processed objects at the time of processing. Moreover, the provisions that apply to the purchased item subject to retention of title shall also apply to the object created by processing.
- (6) If the purchased item is mixed inseparably with other objects that are not our property, we will acquire joint ownership of the new object at the ratio of the value of the purchased item (final amount of the invoice including VAT) to the other mixed objects at the time of mixing. If mixing is carried out in such a way that the customer's item is to be regarded as the main item, it is deemed to be agreed that the customer transfers proportional co-ownership to us. The customer will store the (co-)property created in this way on behalf of us.
- (7) The customer will also assign all claims against a third party that accrue to the customer due to the combination of the purchased item with real-estate in order to secure our claims against the customer.
- (8) We shall be obliged on request by the customer to release the securities to which we are entitled insofar as the realisable value of our securities exceeds the value of the claims to be secured by more than 10%; we shall be entitled to choose which securities to release.

§ 9 Place of Jurisdiction - Place of Fulfilment

- (1) Insofar as the customer is a merchant, our domicile shall be the place of jurisdiction; we shall however, be entitled to sue the customer at the court of the customer's domicile.
- (2) The law valid in the Federal Republic of Germany shall apply.
- (3) Unless otherwise stated in the order confirmation, our domicile shall be place of fulfilment.

