

General Terms and Conditions of Supply and Payment of C. & E. Fein GmbH and C. & E. Fein Service GmbH Status: 01.10.2012

I. Scope

1. These general terms and conditions (GTC) alone shall apply for all orders placed with us, including future orders, even if the Customer's order contains GTC which differ from ours. Such GTC shall be regarded as having been expressly rejected by us and shall not apply.
2. Amendments or supplements to these General Terms and Conditions must be made in writing.

II. Offer

1. Our offers shall be subject to change without notice.
2. We shall reserve full copyrights and title to drawings, cost estimates and other documents. Third parties must not be allowed access to them and they are to be returned straight away upon request and in any event, however, if an order is not placed with us. They may only be used with our collaboration. It is expressly forbidden for the Customer to sell them on his own account.
3. We reserve the right to make technical modifications in the interests of improvement.

III. Prices

1. The prices shall apply ex works or ex stores excluding assembly and installation. Prices shall not include value added tax. Prices refer to the basic German version of our products. We shall charge a lump sum of EUR 6.00 for dispatch within Germany, packaging and transport insurance for goods with a net value up to EUR 500.00. We supply free of charge if the net value of goods exceeds the sum of EUR 500.00. If the delivery address is different, we generally charge a lump sum of EUR 6.00 in addition.
2. The prices in force on the date on which the goods are delivered shall apply.
3. Customised drawings will be charged separately at our rates. This shall also apply for drawings prepared by us as part of an offer for the production of plant.
4. The minimum order value for consignments of goods is EUR 40 (Net price).

IV. Reservation of title

1. We are to be furnished with the following securities until all our accounts (also including outstanding balance claims) to which we are entitled against the Customer for whatever legal reason now or in the future have been settled. We shall release such securities upon request as we choose provided that their value exceeds our accounts by more than 20% for a long period of time.
2. Our goods shall remain our property. Processing or modifications by the Customer shall always be carried out for us as manufacturer without, however, placing us under any obligation. If our (co-) ownership expires as a result of our goods being combined with other goods not belonging to us, it shall be agreed here and now that a proportion of the value (invoiced value) of the Customer's (co-) ownership of the whole product/good shall pass over to us. The Customer shall keep our (co-) ownership in safekeeping for us free of charge. Goods to which we are entitled to (co-) ownership shall be hereinafter designated as goods subject to reservation of title.
3. The Customer is entitled to process and sell goods subject to reservation of title in proper commercial transactions, provided that he is not in default with his payments to us. He is not allowed to pledge or assign the goods subject to reservation of title by way of security. The Customer shall hereby assign to us in full accounts created with regard to the goods subject to reservation of title by reselling the goods or other legal reason (insurance, unlawful act) to us as a security. We authorise the Customer revocably to collect the assigned accounts in his own name for our account. At our request the Customer shall disclose the assignment and hand over the necessary documents and information.
4. The Customer shall notify us straight away if a third party seizes goods subject to reservation of title and point out that the goods belong to us. The Customer shall bear any costs and losses.

5. If we have agreed to take a cheque or draft in payment, in this case our accounts shall be fulfilled when the draft is cashed and credited in full plus ancillary charges. The reservation of title shall expire – subject to other accounts under the business relationship being settled – when payment is made in full.

V. Terms of payment

1. For transactions within Germany, our invoices shall be payable as we choose within 8 days from the date of invoice to qualify for a prompt payment discount of 2% or within 30 days from the date of invoice in full.
2. Payments shall firstly be offset against interest and costs and then against the oldest outstanding debt. The Customer is not allowed to withhold or offset payments on account of counterclaims contested by us and not declared final and absolute in a court of law. This shall not apply for rights to refuse performance under the same contractual relationship.
3. In the event that the Customer is in arrears with making a payment or if there is a significant deterioration in his creditworthiness after the contract has been signed, all accounts shall become payable in cash immediately, even if we have granted a deferment or agreed to accept drafts or cheques in payment. Moreover, we shall in this case be entitled to demand payment in advance or the furnishing of a security and after a reasonable subsequent set period of time withdraw from all existing contracts.

VI. Delivery and Passing of risk

1. Any delivery period quoted by us shall not be binding.
2. A delivery period, which must in all cases be confirmed by us in writing, shall begin on the day on which all queries - technical queries in particular - relating to an order have been clarified and when we have received any part payments or security which may have been agreed.
3. A delivery period will have been observed if the consignment is ready for dispatch within the scheduled period and the Customer has been notified of this. Assembly work does not have to be completed within the delivery period, even if we have expressly agreed in writing to carry it out. Compliance with a delivery period by us presupposes that the Customer has fulfilled all his contractual obligations.
4. We cannot be held responsible for delays in delivery and performance as a result of force majeure and events which make it much more difficult or impossible to supply, including material procurement difficulties which occur subsequently, operational breakdowns, strikes, lock outs, staff shortages, shortage of transportation, official instructions etc. Such delays shall extend any agreed fixed delivery dates by an appropriate period of time. The delivery period shall also be extended by a reasonable period of time if at the Customer's request orders already confirmed are modified with our consent.
5. Part deliveries are allowed. The Customer is to take delivery of supplied items even if they have minor defects.
6. Risk shall always pass over to the Customer once the consignment has left the works or stores. Consignments shall be insured against transport damage. If, at the Customer's request, dispatch or delivery is delayed, risk shall pass over to the Customer on the day on which the consignment is ready for dispatch.

VII. Taking back goods

1. We shall generally not take back ordered goods unless the Customer is entitled to a statutory right of return. The following arrangements shall apply, if, as a favour, we grant our written consent statement in advance in a specific case to take back supplied goods.
2. Our consent to take back supplied goods in return for a credit shall always be subject to the suspensory condition that the goods are received by us in new condition and in their original packaging. The Customer shall bear the cost of returning and insuring the goods.

3. We shall charge a handling fee of 15% of the net value of goods and no less, however, than at least EUR 10. In addition to this, the Customer shall have to pay any refurbishment costs, which may be incurred. The handling fee and any refurbishment costs there may be shall be subtracted from the credit raised. If returns are classified as scrap by FEIN internally, max 50 % of the net value shall be granted as credit note. Scrap are goods older than 2 years, with broken official seals or without original wrapping.
4. Items with a net value/unit less than EUR 20, spare parts (exceptionally with official seal) as well as items not included in our current product range may not be returned and no credit will be raised for them.

VIII. Warranty and Compensation for damages

1. The Customer is obliged to inspect the performance rendered straight away. Any faults, which may be identified at that time or subsequently are to be notified in writing straight away and within 10 days at the latest.
2. We shall rectify asserted and substantiated defects in our performance by means of subsequent fulfilment. Unless goods liable to wear and tear have been purchased, we shall be entitled to choose whether to render subsequent fulfilment by means of repairing a defect or supplying a defect-free item. If the subsequent fulfilment is unsuccessful within a reasonable period of time set for this, the Customer may withdraw from the contract or reduce the price / remuneration by a reasonable amount.
3. Warranty claims for quality defects shall become time-barred after twelve months have elapsed from the passing of risk. This shall apply unless the German Law for Buildings / Structures Construction defects and the Purchase of Consumer Goods (including the right of recourse) provide longer compulsory periods. The warranty period for business customers covering striking parts as well as use in a multi-shift operation shall be six months, taking into account the increased wear.
4. Any rights of recourse to which the Customer may be entitled against us in accordance with Section 478 of the German Civil Code [BGB] shall only exist in so far as no agreements have been made in excess of statutory warranty claims in the supply chain between the Consumer and us
5. Our warranty shall not cover natural wear and tear and moreover it shall not cover damage occurring after the risk has passed over or as a result of incorrect or negligent handling, use not in compliance with the regulations or agreed with us, incorrect storage, excessive loads, unsuitable accessories or as a result of other factors not assumed under this contract. The burden of proof shall be upon the Customer.
6. No claims under warranty at all will be recognised for parts modified or repair work carried out during the period covered by warranty by a party other than us or a workshop authorised by us.
7. Compensation claims for damages asserted by the Customer, regardless of whatever legal reason upon which they are based, and in particular on account of a breach of duties created by the obligation to render duties and as a result of an unlawful action, shall not be recognised. This shall not apply in cases of intent or gross negligence, in cases of death, personal injury or physical harm, cases in which there is liability under the German Product Liability Act, for a product warranty furnished, for damage resulting from a culpable breach of important contractual obligations or in other cases in which liability is compulsory by law. Important contractual duties are the respective main contractual obligations as well as other contractual (ancillary) obligations, which could, in the event of a culpable breach

of duty, lead to the achievement of the contractual objective being jeopardised. Liability for the breach of important contractual obligations is, however, limited to the reimbursement of foreseeable damage typical for the contract, provided that there is no intent or gross negligence and that there is no liability for death, personal injury or physical harm.

IX. Repairs

1. Invoices for repairs shall be payable in full immediately upon receipt of invoice.
2. If the Customer does not place an order with us for a repair after we have provided him with a cost estimate for that repair, we shall consequently be entitled to invoice him for the costs incurred in the preparation of the cost estimate in line with our rates.

X. Breach of contract by the customer

1. Breaches of contract of all types by the Customer, in particular also including breaches against the provisions of these ÖVO of Supply and Payment, shall place the Customer under an obligation to reimburse us for all damages incurred. If the Customer has breached the contract, it shall consequently be assumed that any damage, which may be caused, is attributable to his breach.
2. In these cases we shall be entitled to withdraw from the contract or from part of the contract as we choose. Our compensation claims for damages shall not be affected as a result of exercising our right of withdrawal from the contract.

XI. Distribution

1. Our goods must not be exported from Germany either directly or indirectly without our prior written consent since licensing regulations differ from country to country, provided that this contractual prohibition is not contrary to compulsory German law. In the event that this prohibition on the export of goods from Germany is breached, our warranty shall be rendered invalid. Moreover, we shall be entitled to stop future consignments and to demand information and compensation for damages.
2. Consignments within Germany are to be delivered in accordance with the German safety regulations in force at that time. In so far as regulations or technical factors in other countries differ from those in Germany and require modifications, we shall not accept any liability for direct or indirect damage.

XII. Data protection, Place of jurisdiction, Place of fulfilment and Miscellaneous

1. Personal data shall be collected, saved, processed and used in accordance with the statutory regulations for the purposes of entering into and executing a contract. As part of this we shall reserve the right to apply our scoring system for the purposes of checking the creditworthiness of our Customers and to forward data (Customer's name and address) to relevant businesses (credit reference agencies).
2. If the Customer is a registered trader, the place of jurisdiction for all legal disputes arising from the business relationships with the Customer shall be Schwäbisch Gmünd.
3. The place of fulfilment is likewise Schwäbisch Gmünd.
4. All legal relationships with the Customer shall be governed by the law of the Federal Republic of Germany. The international law on sales shall not apply.
5. Should part of the contract or these ÖVO of Supply and Payment be invalid, the validity of the contract or remaining provisions shall not be affected as a result. Subsequent supplements or amendments to the contract or these ÖVO must be made in writing, whereby they must be confirmed by us.