

## **General Terms and Conditions of Sale of SEYDEL Maschinenfabrik GmbH**

### **§ 1 General, scope of application**

(1) All deliveries, services and offers of SEYDEL Maschinenfabrik GmbH (hereinafter referred to as "Seller") shall be based exclusively on these General Terms and Conditions of Sale. These terms and conditions shall form part of all contracts which the seller concludes with its contractual partners (hereinafter also referred to as "customers") for the deliveries or services offered by the seller. They shall also be applicable to all future deliveries, services or offers to the customer, even if they are not separately agreed upon again.

(2) Terms and conditions of the customer or third parties shall not apply, even if the seller does not specifically object to their validity in individual cases. Even if the seller refers to a letter which contains or refers to the terms and conditions of business of the customer or a third party, this does not represent any agreement with the validity of those terms and conditions.

### **§ 2 Offer and conclusion of contract**

(1) All offers of the seller are subject to change and shall be deemed non-binding, unless they are expressly marked as binding or contain a specific period of acceptance. The seller can accept orders within fourteen days of receipt.

(2) The purchase contract concluded in writing, including these General Terms and Conditions of Sale, shall be solely decisive for the legal relationship between the seller and the customer. It fully reflects all agreements between the parties to the contract on the object of the contract. Verbal agreements made before or during conclusion of the contract shall require written confirmation by the seller to be effective. Verbal promises, assurances or guarantees made by the seller's employees before or upon conclusion of this contract are not legally binding.

(3) The seller reserves the ownership or copyright of all offers and cost estimates submitted by him as well as drawings, illustrations, calculations, brochures, catalogs, models, tools and other documents and aids made available to the customer. It is not permitted for the customer to make these items accessible to third parties, to make them known, to use or reproduce them himself or through third parties without the express consent of the seller. At the seller's request, he shall return these items in full to the seller and destroy any copies made if they are no longer needed by him in the ordinary course of business or in the event that negotiations do not lead to the conclusion of a contract.

(4) Technical documents belonging to the seller such as drawings and sketches, descriptions, illustrations and the like as well as any weight specifications and measurements are not binding unless they have been expressly designated as binding. Documents designated in writing by the seller as confidential or not intended for disclosure shall remain the property of the seller and may not be copied or reproduced or brought to the attention of third parties in any way or used for the manufacture of machines or components without the written consent of the seller. They may be used for maintenance and operation provided they have been marked accordingly by the seller.

### **§ 3 Prices and payment, offsetting and retention**

(1) The prices are deemed valid for the scope of services and deliveries listed in the order confirmations. Additional or special services shall be charged separately. Prices are in EURO

FCA Bielefeld plus packaging and the statutory value added tax as well as fees and other public charges.

(2) Invoiced amounts are to be paid within thirty (30) days without any deductions by bank transfer, unless otherwise agreed in writing. The date of receipt by the seller shall be decisive for the date of payment. Cheques are not accepted as means of payment. In the event that the customer fails to make payment when due, the outstanding amounts shall bear interest at nine (9) percentage points per annum above the respective base interest rate from the day following the due date; the entitlement to claim higher interest and further damages in the event of default shall remain unaffected.

(3) Offsetting against counterclaims of the customer or withholding of payments resulting from such claims shall only be permissible if the counterclaims are undisputed or have been legally established.

(4) The seller shall be entitled to carry out or provide outstanding deliveries or services only against advance payment or provision of security if, following the conclusion of the contract, the seller becomes aware of circumstances which are likely to substantially reduce the creditworthiness of the customer and as a result of which the payment of the seller's outstanding claims by the customer from the respective contractual relationship (this includes other individual orders to which the same framework agreement applies) is jeopardized.

(5) The seller shall be entitled to increase the agreed price for quantities not yet delivered if, due to changes in the raw material and/or economic situation, circumstances arise which make the production and/or purchase of the product concerned significantly more expensive than at the time of the price agreement. Any increase or adjustment of the agreed price shall be deemed admissible in particular if the prime costs, in particular the material prices or the wage rates, change between the time of the conclusion of the contract and the contractual performance or if the scope of the agreed deliveries or services has changed or the material or the performance of the deliveries or services has changed as a result of the documents or information provided to the seller by the customer not corresponding to the actual circumstances or being incomplete.

#### **§ 4 Delivery and delivery time**

(1) Commencement of and obligation to comply with delivery periods are subject to the clarification of all technical details of the order, the fulfillment of the customer's obligations to cooperate, in particular the timely receipt of all materials to be supplied by the customer, such as documents, official permits, investigations, releases and compliance with the agreed terms of payment, as well as the provision of any agreed letters of credit or guarantees by the customer. We shall reserve the right to invoke the defense of non-performance of the contract. Furthermore, the seller's delivery obligation shall be subject to the proviso of correct and timely delivery to the seller, unless the seller is at fault for incorrect or delayed delivery to the seller.

(2) Deliveries shall be made FCA Bielefeld, unless otherwise agreed in writing.

(3) Deadlines and dates for deliveries and services promised by the seller shall always be approximate unless a fixed deadline or a fixed date is expressly promised or agreed. If shipment has been agreed, delivery periods and dates shall refer to the time of handover to the forwarding agent, carrier or other third party commissioned with the transport.

(4) The seller can – without prejudice to his rights arising from default on the part of the customer – demand the extension of delivery and service periods or a postponement of delivery and service dates by the period of time in which the customer does not fulfil his contractual obligations to the seller.

- (5) The seller shall only be entitled to make partial deliveries if
- (a) the partial delivery can be used by the customer within the scope of the contractual purpose,
  - (b) the delivery of the remaining ordered goods is ensured and
  - (c) the customer does not incur significant additional work or costs as a result (unless the seller agrees to bear these costs).
- (6) If the seller is in default with any delivery or service or if delivery or service becomes impossible for the seller for whatever reason, the seller's liability for damages shall be limited pursuant to § 8 of these General Terms and Conditions.

### **§ 5 Force majeure**

The seller shall not be liable for impossibility of delivery or for delays in delivery to the extent that these are due to force majeure or other events that were not foreseeable at the time of conclusion of the contract (e.g. operational disruptions of any kind, plagues or epidemics and pandemics, difficulties in procuring materials or energy, transport delays, strikes, lawful lock-outs, lack of labor, energy or raw materials, difficulties in procuring necessary official permits, official measures or the failure of, incorrect or untimely delivery by suppliers) and for which the seller is not responsible. To the extent that such events make delivery or performance by the seller considerably more difficult or impossible and the obstruction is not only of a temporary nature, the customer shall be entitled to withdraw from the contract. In the event of obstructions of temporary duration, the delivery or service deadlines shall be extended or the delivery or service dates postponed by the period of the obstruction plus a reasonable lead time.

### **§ 6 Place of performance, dispatch, packaging, transfer of risk, acceptance**

- (1) Unless otherwise specified, the place of performance for all obligations arising from the contractual relationship is the registered office of the seller.
- (2) Shipping method and packaging are subject to the discretion of the seller.
- (3) Risk shall pass to the customer at the latest when the delivery item is transferred to the forwarding agent, carrier or other third party designated to carry out the shipment. This shall also apply if partial deliveries are made or the seller has also assumed other services (e.g. shipping). If shipping or handover is delayed owing to a circumstance the cause of which lies with the customer, risk shall pass to the customer from the day on which the delivery item is ready for shipping and the seller has informed the customer of this.
- (4) Storage costs after the transfer of risk shall be borne by the customer. If the seller stores the goods, the storage costs amount to 0.25% of the invoice amount of the delivery items to be stored per week elapsed. We reserve the right to assert and prove further or lower storage costs.
- (5) The seller must provide insurance for the consignment against damage in transit only at the customer's express request and at his expense.
- (6) To the extent that acceptance is to take place, the purchased item shall be deemed accepted if
- (a) the delivery has been fulfilled
  - (b) the seller has communicated this to the customer with reference to the fictitious acceptance pursuant to § 6 (6) of these Terms and Conditions and has requested the customer to accept,

(c) twelve working days have elapsed since delivery or the customer has started to use the object of purchase (e.g. has put the delivered equipment into operation) and in this case six working days have elapsed since delivery, and

(d) the customer has failed to accept the goods within this period for any reason other than a defect notified to the seller that renders the use of the purchased goods impossible or significantly impairs their use.

### **§ 7 Warranty, material defects**

(1) The warranty period extends for one year from delivery or, if acceptance is required, from the date of acceptance.

(2) The delivered items must be thoroughly examined immediately upon delivery to the customer or to the third party designated by the customer. They shall be deemed to have been approved unless a written notification of defects regarding obvious defects or other defects that were recognizable in an immediate, thorough inspection is received by the seller within seven working days after delivery of the object of delivery or otherwise within seven working days after discovery of the defect or any earlier point in time at which the defect was recognizable for the customer without more detailed examination during the regular use of the object of delivery in the manner specified in § 11 (1) sentence 3. At the seller's request, the delivery item for which a complaint has been made shall be returned to the seller carriage paid. If the complaint is justified, the seller shall reimburse the costs of the most favorable dispatch route; however, this shall not be applicable if the costs increase because the object of delivery is located at a place other than the place of intended use.

(3) In the event of material defects of the delivered items, the seller shall initially be obligated and entitled to rectify the defects or make a replacement delivery at his discretion within a reasonable period of time. In the event of failure to do so, i.e. impossibility, unreasonableness, refusal or unreasonable delay of the repair or replacement delivery, the customer is entitled to withdraw from the contract or reduce the purchase price appropriately.

(4) If a defect can be attributed to the fault of the seller, the customer is entitled to claim damages under the conditions set out in § 8.

(5) In the event of defects in components from other manufacturers that the seller cannot remedy for reasons of licensing law or for factual reasons, the seller will, at his discretion, either assert his warranty claims against the manufacturers and suppliers for the customer's account or assign them to the customer. Warranty claims against the seller shall only be deemed to exist for such defects under the other conditions and in accordance with these General Terms and Conditions of Sale if the legal enforcement of the above-mentioned claims against the manufacturer and supplier was unfruitful or, for example due to insolvency, is futile. The limitation of the customer's warranty claims against the seller is suspended for the duration of the legal dispute.

(6) The warranty shall not apply if the customer modifies the delivery item or has it modified by third parties without obtaining the seller's consent and the elimination of the defect is thereby rendered impossible or unreasonably difficult. The customer shall, in any case, be liable for the additional costs of remedying the defect arising from the modification.

(7) The delivery of used objects that has been agreed upon with the customer in individual cases shall be effected under exclusion of any warranty for material defects.

(8) Excluded from the warranty in particular are damages resulting from natural wear and tear, use of spare parts other than the seller's original spare parts, use of third-party accessories in a design that the seller considers unsuitable, inadequate maintenance, disregard of operating instructions, improper operation, excessive strain, unsuitable

equipment, chemical and electrolytic influences, corrosion, vibrating floors, defective foundation and construction work not carried out in accordance with the seller's instructions, assembly work not carried out by the seller and as a result of other reasons, provided that the seller is not to blame for these.

(5) With respect to the subject of defects, the seller shall not be held liable for the conformity of the goods with the legal and technical regulations (and thus also the technical state of the art) of the buyer's country or the importing country.

### **§ 8 Liability for damages due to fault**

(1) The seller's liability for damages, regardless of the legal grounds, in particular resulting from impossibility, delay, defective or incorrect delivery, breach of contract, breach of duties during contract negotiations and tort, is limited in accordance with the provisions of § 8 of these Terms and Conditions, insofar as fault is involved in each case.

(2) The seller shall not be held liable in the event of simple negligence on the part of its organs, legal representatives, employees or other vicarious agents insofar as it is not a matter of a breach of essential contractual obligations. Essential contractual obligations are the obligation to deliver the delivery item free of essential defects in due time as well as duties of advice, protection and care, which are intended to enable the customer to use the delivery item in accordance with the contract or which are intended to protect life and limb of the customer's personnel or to protect the customer's property from substantial damage.

(3) To the extent that the seller is liable for damages on the grounds of § 8 (2), this liability shall be limited to damages which the seller foresaw as a possible consequence of a breach of contract at the time of conclusion of the contract or which he should have foreseen when exercising due diligence. Indirect damage and consequential damage resulting from defects in the delivery item shall only be subject to compensation if such damage is typically to be expected when the delivery item is used for its intended purpose.

(4) In the case of liability for simple negligence, the seller's obligation to provide compensation for material damage and any resulting further financial losses is limited to an amount of EUR 500,000.00 per case of damage, as far as legally permissible, even if it concerns a breach of essential contractual obligations.

(5) The above exclusions and limitations of liability shall apply to the same extent in favor of the seller's organs, legal representatives, employees and other vicarious agents.

(6) If the seller provides technical information or assistance in an advisory capacity and this information or assistance is not stipulated by contract, this service is provided free of charge and the seller shall not be held liable for any damage or loss resulting from such information.

(7) The limitations of § 8 of these Terms and Conditions do not apply to the liability of the seller, his organs, legal representatives, employees and other vicarious agents for intentional behavior, for guaranteed features, for injury to life, body or health or under the Product Liability Act.

### **§ 9 Retention of title**

(1) The goods delivered by the seller to the customer remain the property of the seller until full payment of all secured claims. The goods as well as the goods taking their place pursuant to this clause and which are subject to the retention of title are hereinafter referred to as reserved goods.

(2) The retention of title agreed in the following serves to secure all current and future claims of the seller against the customer from the supply relationship existing between the contracting parties (including balance claims from a current account relationship limited to this supply relationship).

(3) The customer shall store the reserved goods free of charge for the seller.

(4) The customer is entitled to process and sell the reserved goods in the ordinary course of business until the event of realization (paragraph 9). Pledging and transfer of ownership by way of security are not permitted.

(5) If the reserved goods are processed by the customer, it is agreed that the processing shall be carried out in the name and for the account of the seller as the manufacturer and that the seller shall directly acquire ownership or – if the processing is carried out from materials of several owners or the value of the processed item is higher than the value of the reserved goods – co-ownership (fractional ownership) of the newly created item in proportion of the value of the reserved goods to the value of the newly created item. Should no such acquisition of ownership occur by the seller, the customer hereby shall transfer his future ownership or – in the above-mentioned ratio – co-ownership of the newly created object to the seller as security.

(6) In the event of resale of the goods subject to retention of title, the customer hereby assigns by way of security to the seller the resulting claim against the acquirer – in the case of co-ownership of the seller of the goods subject to retention of title in proportion to the co-ownership share. The same shall apply to other claims taking the place of the reserved goods or otherwise arising with regard to the reserved goods, e.g. insurance claims or claims in tort in case of loss or destruction. The seller revocably authorizes the customer to collect the claims assigned to the seller in his own name. The seller shall only be entitled to revoke this direct debit authorization in the event of utilization.

(7) If third parties seize the reserved goods, in particular by attachment, the customer shall inform them immediately of the seller's right of ownership and inform the seller immediately in order to enable the seller to enforce its rights of ownership.

(8) The seller shall release the reserved goods as well as the items or claims replacing them on request and at his discretion, insofar as their value exceeds the amount of the secured claims by more than 10%.

(9) If the seller withdraws from the contract in the event of a breach of contract on the part of the customer, in particular default in payment (case of realization), the seller shall be at liberty to demand the return of the reserved goods.

## **§ 10 Place of jurisdiction and choice of law**

(1) Place of jurisdiction for any disputes arising from the business relationship between the seller and the customer is - to the extent permitted by law - the seller's registered office. Mandatory statutory provisions on exclusive places of jurisdiction shall remain unaffected by this provision.

(2) The relations between the seller and the customer are exclusively subject to the law of the Federal Republic of Germany. The United Nations Convention on Contracts for the International Sale of Goods of April 11, 1980 (CISG) does not apply.

(3) The most current version of the INCOTERMS of the International Chamber of Commerce in Paris at the time of conclusion of the contract shall apply for the interpretation of commercial clauses.

### **§ Section 11 Trademarks and trade names**

Trademarks and trade names belonging to the seller may only be used in connection with the product manufactured by the customer with the special written consent of the seller.

### **§ 12 Final provisions**

(1) Additions and amendments to the agreements made, including these General Terms and Conditions of Sale, must be made in writing in order to be legally effective. The written form shall also be deemed to have been satisfied if transmitted by e-mail.

(2) Should individual provisions of these General Terms of Sale be or become invalid, this shall not affect the validity of the remaining provisions. The parties shall replace an invalid provision by a provision which comes closest to the economic purpose of the invalid provision and is valid.

(3) Insofar as the contract or these General Terms and Conditions of Sale contain omissions, those legally effective provisions shall be deemed agreed to fill these omissions which the parties to the contract would have agreed to in accordance with the economic objectives of the contract and the purpose of these General Terms and Conditions of Sale if they had been aware of the omission.