

General Conditions of Sale of Maurer Rides GmbH

I. General

All deliveries of goods and services shall be governed by these conditions as well as any separate contractual agreements. Any purchase conditions of the Customer which deviate from these terms and conditions shall not become part of the Contract even on acceptance of the purchase order.

In the absence of any separate agreement, a Contract shall come into effect on written confirmation of the purchase order by the Supplier.

II. Price and payment

1. In the absence of a separate agreement, the prices shall be ex works exclusive of packaging, loading and unloading. Value added tax at the applicable statutory rate shall be added to the prices insofar as the transaction is subject to value added tax.
2. In the absence of a separate agreement, payment must be made, without any deductions, into the Supplier's account, as follows:
1/3 Payment in advance on receipt of the order confirmation,
the remaining amount within one month of the transfer of risk.
3. The Customer shall only have the right to withhold payments or to set them off against counterclaims insofar as its counterclaims are undisputed or have been upheld by way of a final court judgement.

III. Delivery period, delay in delivery

1. The delivery period is based on the agreements between the contracting parties. Compliance therewith by the Supplier requires all commercial and technical questions between the contracting parties to have been clarified and the Customer to have fulfilled all its obligations.
2. Compliance with the delivery period is subject to correct and timely delivery by our own suppliers. The Supplier shall give notice of any pending delays as soon as possible.
3. The delivery period is deemed to have been complied with if, by the date of its expiry, the delivery item has left the Supplier's works or readiness for dispatch has been notified. Insofar as there has to be an acceptance, the date of acceptance shall – with the exception of legitimate refusal of acceptance – determine compliance with the delivery date, or alternatively notification of readiness for acceptance.
4. Where failure to comply with the delivery period is due to force majeure, industrial dispute or other events beyond the control of the Supplier, the delivery period shall be extended by a reasonable amount. The Supplier shall notify the Customer as soon as possible of the beginning and end of such circumstances.

IV. Transfer of risk, acceptance

1. The risk shall pass to the Customer when the delivery item has left the works, and this shall also apply to partial deliveries or where the Supplier still has additional obligations e.g. is responsible for shipping costs or for delivery and installation. Insofar as there has to be an acceptance, this shall determine the date on which risk is transferred. Acceptance must take place without delay on the acceptance date, alternatively on notification by the Supplier of readiness for acceptance. The Customer may not refuse acceptance due to an immaterial defect.
2. Where dispatch or acceptance is delayed or does not take place due to circumstances which cannot be attributed to the Supplier, the risk shall pass to the Customer as from the date of notification of readiness for dispatch or acceptance. The Supplier undertakes to conclude any insurance required by the Customer at the Customer's expense.
3. Partial deliveries are permitted provided this is reasonable for the Customer.

V. Reservation of title

1. The Supplier reserves title to the delivery item until receipt of all payments arising under the Contract – including any ancillary payments due.
2. The Customer may not sell or pledge the delivery item or assign it by way of security. It must inform the Supplier immediately in case of attachment or seizure or other disposition by a third party.
3. In the event of a breach of contract by the Customer, in particular in the event of default on payment, the Supplier shall, following a reminder, be entitled to take back the delivery item and the Customer shall be obliged to effect restitution.
4. The Supplier may only require restitution of the delivery item, on the basis of the reservation of title, if it has rescinded the Contract.
5. An application for the institution of insolvency proceedings shall entitle the Supplier to rescind the Contract and require immediate return of the delivery item.

VI. Warranty claims

The Supplier shall be liable for material defects in the delivery to the exclusion of other claims – subject to Section VII – as follows:

1. The Supplier may opt either to repair or replace, free of charge, those parts which prove to be defective as a result of circumstances existing prior to the transfer of risk. The discovery of such defects must be reported to the Supplier immediately in writing. Replaced parts shall become the property of the Supplier.
2. Following consultation with the Supplier, the Customer must allow the Supplier the necessary time and opportunity to effect any repairs or replacements which the Supplier considers necessary; otherwise the Supplier shall be released from liability for the resulting consequences. The Customer is only entitled to remedy the defect, either itself or by way of a third party, and claim compensation for the necessary costs from the Supplier, in urgent cases where plant safety is at risk, or to prevent an unreasonably high level of damage, in which case the Supplier must be informed immediately.
3. Of the costs arising directly from the replacement delivery – provided the complaint proves to be justified – the Supplier shall only bear the cost of the replacement part including shipping.
4. Under the statutory provisions, the Customer has a right to rescind the Contract if the Supplier – taking account of the statutory exemptions – fails, in the case of a material defect, to effect repair or replacement within a reasonable time limit. Where the defect is only slight, the Customer shall only be entitled to a reduction in the contractual price. The right to a reduction in the contractual price is otherwise excluded.

Additional rights are specified exclusively according to Section VII. 2 of these provisions.

5. No liability is accepted in particular in respect of the following:

Inappropriate or incorrect use, defective assembly or putting into operation by the Customer or a third party, natural wear and tear, incorrect or negligent handling, lack of proper servicing, unsuitable operating facilities, defective building work, unsuitable foundations, chemical, electro-chemical or electrical factors – insofar as they are not the responsibility of the Supplier.

6. Where the Customer or a third party carries out improper repairs, the Supplier shall not be liable for the resulting consequences. The same applies to changes to the delivery item undertaken without the prior consent of the Supplier.

VII. Liability of the Supplier, disclaimer

1. Where the delivery item cannot be used by the Customer in accordance with the Contract and the Supplier is to blame due to its failure to implement, or properly implement, suggestions or advice given before or after conclusion of the Contract, or due to a breach of other contractual obligations – in particular instructions on the use and maintenance of the delivery item – the provisions in Sections VI and VII. shall apply to the exclusion of any additional rights of the Customer.
2. With respect to damages which do not affect the delivery item itself, the Supplier shall be liable – whatever the legal grounds – only
 - a) in case of intent,
 - b) in case of gross negligence on the part of the owner/organs or executive staff,
 - c) in case of culpability for death, personal injury, damage to health,
 - d) in case of defects which it fraudulently conceals,
 - e) within the framework of a guarantee,
 - f) in case of defects in the delivery item where liability exists under the Product Liability Act for personal injury or damage to privately used items.

In the case of the culpable breach of a material contractual condition, the Supplier shall also be liable for the gross negligence of non-executive staff and for simple negligence, limited in the latter case to reasonably foreseeable loss typical for this type of contract.

Other rights are excluded.

VIII. Limitation

All rights of the Customer – whatever their legal basis – shall become time-barred after 6 months. With respect to claims in damages under Section VII. 2 a-d and f, the statutory time-limits apply. They also apply to defects in an assembly or to delivery items, which in accordance with their normal mode of application, are used for an assembly and have caused it to be defective.

IX. Use of software

Insofar as software forms part of the delivery, the Customer shall be granted a non-exclusive right to use the supplied software together with its documentation. The Customer may only duplicate, adapt or translate the software, or convert it from object code to source code, to the extent permitted by statute (Sections 69 a et seq. Copyright Act (UrhG)). The Customer undertakes not to remove manufacturing details – particularly copyright notices – or to change them without the prior express consent of the Supplier. All other rights to the software and documentation, including copies, shall remain with the Supplier or the software supplier. The granting of sub-licenses is not permitted.

X. Applicable law, jurisdiction

1. The applicable law of the Federal Republic of Germany, excluding all international conventions, shall apply exclusively with respect to all legal relations between the Supplier and the Customer.
2. The place of jurisdiction shall be the location of the Supplier's registered office. The Supplier is however entitled to bring an action against the Customer in any location where it has a registered office.