

# **GENERAL TERMS AND CONDITIONS OF SALE OF dk Präzisionstechnik und Maschinenbau GmbH & Co. KG**

Stand 30.01.2012

## **§1 General**

1. The terms and conditions set out below shall form part of the agreement concluded with us.
2. Our General Terms and Conditions of Sale shall apply in accordance with the most recent version and to all subsequent transactions without any need of express reference thereto or agreement thereon at the conclusion of such transaction.
3. We hereby object to any counter confirmation, counter offer or other reference by the Buyer to its general terms and conditions; any dissenting terms and conditions of the Buyer shall only apply if we have confirmed the same in writing.
4. The Buyer may not assign any claims arising from transactions with us without our written approval.

## **§2 Offers; Orders; Documentation**

1. Our offers shall not be binding; in particular with reference to quantities, price and delivery time.
2. Orders placed by the Buyer shall not be regarded as accepted before these have been confirmed to us in writing. If we should fail to confirm an agreement in writing which we have entered into verbally or in a telephone conversation, then our invoice shall be regarded as confirmation.
3. The documents that belong to the offer, including illustrations, drawings and information on weights and dimensions, are only approximately accurate unless expressly declared binding. We retain ownership of and the copyright for cost estimates, drawings and other documents; they must not be placed at the disposal of third parties without our explicit consent in writing.
4. Descriptions of our products must be considered only as information on the nature of these products and can in no way be considered as a guaranty on the quality of the products in question.
5. Technical modifications of our products which improve their value or quality may be implemented at any time and without prior notification.

## **§3 Prices; Default of payment**

1. Our prices shall exclude any statutory VAT which shall be payable at the date of delivery.
2. The reduction of the invoice value by cash discount requires a written agreement.
3. If the customer gets in default with his payments, we are entitled to claim interest on arrears of 9% p.a. on top of the German basic rate of interest. If we can prove that the damage to us due to delayed payments exceeds this amount, we can claim compensation for the actual damage.

## **§4 Quantity; Quality; Labelling**

Unless otherwise agreed or confirmed by us in writing, the quality of the goods shall be in accordance with customary trade practice.

## **§5 Shipment; Delivery**

1. The goods shall be transported uninsured and in any event at the risk of the Buyer. This shall also apply in cases of any delivery free of charge and regardless of which means of transport shall be used. Any transport insurance shall be provided only upon express demand of the Buyer. Any costs arising therefrom shall be at the expense of the Buyer only.
2. The selection of the place of dispatch and the transport route and the means of transport shall, in the absence of any written arrangement dictating otherwise, be subject to our reasonable discretion and be without liability for the cheapest and fastest transport.
3. We shall have the right to reasonable delivery in installments.
4. Our delivery obligation shall at all times be subject to timely and orderly receipt of the goods from our own suppliers.

5. Unless otherwise expressly agreed in writing, any indicated time of delivery or unloading shall be non-binding.
6. If any agreed time of delivery or unloading shall be exceeded due to reasons we have to account for, then the Buyer must specify to us a reasonable cure period of minimum two weeks. If we shall fail to meet such deadline also, then the Buyer shall have the right to rescind the agreement but shall have no right to seek compensation for breach of contract or default unless in cases of willful misconduct or gross negligence on our part.

## **§6 Duty to Inspection and Objection**

1. Upon delivery at the agreed destination or (in the event of self supply) upon taking possession, the Buyer shall immediately
  - check quantities, weight and packaging and record any objections thereto on the delivery note or consignment note and/or the acknowledgement of receipt/warehouse removal note of the cold storage and
  - conduct a quality check representatively on a spot check basis.
2. In case of a notice of defect the Buyer shall comply with the following procedures and deadlines:
  - The notification shall be made by no later than the expiry of the working day on which the delivery of the goods to the agreed destination or on which possession of the goods has been taken. In the event of an objection to a hidden defect which, despite a first inspection in accordance with subsection (1) above, has remained undiscovered a different deadline regime shall apply. In such case the objection must be raised within the earlier of the expiry of the working day on which the defect has been discovered but in any event by no later than two weeks after delivery or take over of the goods.
  - The detailed notice shall be delivered to us within the aforementioned deadlines in writing, by telegraph, telex or fax. Any notice by telephone conversation shall not be accepted. Any notice to sales representatives, commission agents or agents shall not be valid.
  - The notice must clearly specify the kind and amount of the alleged defect.
  - The Buyer agrees to make available for inspection the objected goods at the place of inspection; such inspection may be done by us, our suppliers or any expert we may have designated.
3. No objections with regard to quantities, weight or packaging of the goods shall be possible unless a note has been placed on the delivery note or a consignment note or a receipt of acknowledgement. Moreover, right to object shall cease to exist, when the Buyer has mixed, used or resold the goods delivered or shall have started its processing.
4. Any good to which objections shall not have been raised in accordance with the procedures and deadlines set out above shall be regarded as approved and accepted.

## **§7 Terms and Period of Warranty**

1. Upon justified objections which shall have been raised in accordance with the procedures and deadlines hereunder, the buyer shall have the right to claim a reduction in the purchase price which shall be without prejudice to our right to provide the return of the objected goods.
2. The Buyer shall not be entitled to any further rights or remedies. In particular, we shall not be responsible for any compensation based on breach of contract or default unless the goods shall lack a characteristic that we shall have expressly guaranteed or in cases of wilful misconduct or gross negligence on our part.
3. The period of warranty is one year, calculated from the date of delivery of the goods. This warranty period is considered as a statutory period of limitation.

## **§8 Retention of Title**

We reserve title to all goods delivered until all payments for these goods have been made.

## **§9 Place of performance and jurisdiction**

1. The exclusive place of jurisdiction is Reutlingen ( Germany). We reserve the right, however, to sue the customer at the competent court of his place of residence.
2. The place of performance is Reutlingen ( Germany), unless stipulated otherwise in our order confirmation.
3. The contractual relationship and its interpretation shall be exclusively subject to the laws of the Federal Republic of Germany.