



MATZEN SCHLAUCH-TECHNIK

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General terms and conditions of trade

May 2014

§ 1 General Terms

1. The Terms and Conditions of Trade apply to all present and future business relations.
2. The Consumer, in relation to the Terms and Conditions of Trade is a natural person who enters into a legal transaction, for a purpose that is outside his trade, business or profession. The Entrepreneur, in relation to the General terms and conditions of trade is a natural or legal person or a partnership with legal personality who or which when entering into a legal transaction, acts in exercise of his or its trade business or profession. The Customer, in relation to the General terms and conditions of trade is a Consumer as well as an Entrepreneur.
3. Different or opposite or additional General terms Company (MST) -even if noticed- will not be integral part of contract unless Company (MST) has given approval explicit in written.

§ 2 Conclusion of the Agreement

1. Our offers are subject to confirmation. Technical changes are within reason subject to change. For hoses and hose type parts, DIN EN ISO 1307 is basically applied for the tolerances.
2. On placing an order for goods, the customer makes a binding declaration, to purchase the ordered goods. We are entitled to agree/accept the underlying offer of contract from the order, within two weeks of receipt. The acceptance can either be made in writing or by delivery of the goods to the Customer.
3. If the Consumer orders the goods by electronic communication, we will confirm receipt of the order accordingly. The confirmation of receipt does not constitute a binding acceptance of the order. The confirmation of receipt does not constitute a binding acceptance of the order.
4. The conclusion of the agreement is subject to receiving correct and punctual delivery from our supplier. This is valid only if the non-delivery is beyond our control, in particular at the time of completing a congruent transaction with our supplier. The Customer will be informed accordingly of the non-availability of the goods/services. The service in return will be accordingly reimbursed.
5. Provided that the Consumer orders the goods by electronic communication, the contract details will be saved by us and forwarded to the Customer on request together with the existing General terms and conditions of trade.

§ 3 Ownership/Reservation of Proprietary Rights

1. With Consumer contracts, it is expressly agreed that ownership is reserved in all goods supplied by the company (MST) until payment in full has been received by the Consumer. With Entrepreneur contracts, ownership is reserved in all goods supplied by the company (MST) until the complete settlement of all outstanding payments within the current business relation has been made.
2. The Customer is obligated to handle the goods with care and where inspection and maintenance work is necessary, the Customer has to carry this out on a regular basis and at their own expenses.
3. The Customer is obligated to inform us immediately of a Third Party having access to the goods, for instance in the case of an impound and as well of any damage to or destruction of the goods. A change of ownership of the goods as well as a change of domicile has to be indicated to us immediately by the Customer.
4. We are entitled to withdraw from the contract and demand the goods back, should the Customer not adhere to the terms of the contract, in particular with delay of payment.
5. The Entrepreneur is entitled to sell the goods in a proper manner of business/fair trading manner. He has now to transfer all outstanding arrears to the invoice amount, which has arisen from the resale of the goods to a Third Party. We accept the transfer. After the transfer, the Entrepreneur is authorised to collect the debt. We reserve the right to collect the debt ourselves, as soon as the Entrepreneur does not discharge his payment obligations according to the agreement resulting in late payment.
6. The handling/processing and working of the goods by the Entrepreneur takes place in the name of and by order of the Company (MST). Should the working of goods be carried out with parts not belonging to us, then we acquire the common ownership/co-ownership of the new item, in relation to the commodity supplied by us to the other finished/worked articles. The same applies when the goods are mixed with other parts which do not belong to us.



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§ 4 Terms of Payment

1. The prices quoted are ex-works, plus in each case the current value added tax. All costs for additional services/benefits, fees, public charges, taxes, custom duties etc. are to be paid by the customer.
2. All prices quoted are valid for a period of four weeks, calculated from a binding receipt of order.
3. No additional costs will be incurred by the Customer for placing an order through a means of telecommunication.
4. Payment shall be made by the Customer within ten days of receiving the goods. Payments not made on the due date by Consumers bear interest at the rate of 5% per annum above the level of the prime lending rate of the "Deutsche Bundesbank" (Basiszinssatz). Payments not made on the due date by the Entrepreneur bear interest at the rate of 8% per annum above the level of the prime lending rate of the "Deutsche Bundesbank" (Basiszinssatz). The Company's (MST) right to assert a further claim to the Entrepreneur for damages arising from default shall not be limited by this regulation.
5. The Customer shall only be entitled to set off or withhold payments only if agreed to by the Company (MST) or if such counterclaim is undisputed or declared final and binding by a court without possibility for appeal. The Customer can only carry out a right of retention if his counterclaim is based on the same contractual relationship.

§ 5 Intra-Community delivery

1. Insofar as sales from intra-Community deliveries are exempted from the sales tax in accordance with the German VAT Act (Umsatzsteuergesetz), the Customer shall be obliged, if demanded by the Company (MST) and in accordance with the requirements set out by him, to contribute to the issuing of the relevant proofs of delivery necessary under the German sales tax system (e.g. a Certification of the entry of the object of an intra-Community supply into another EU Member State (Gelangensbestätigung)) or other relevant documents. The Customer shall be subject to the same obligations if the delivery fulfills the qualifications of an intra-Community triangular deal under Section 25b of the German VAT Act (Umsatzsteuergesetz) and therefore the Company (MST) is in need of the relevant proofs of delivery necessary under the German sales tax system (e.g. a Certification of the entry of the object of an intra-Community supply into another EU Member State (Gelangensbestätigung)) or other relevant documents.
2. In case Customer will not fulfill obligation according to point 1 Company (MST) will invoice VAT to Customer. Insofar VAT is component of purchase price.

§ 6 Risk and Delivery

1. If the Customer is an Entrepreneur, the risk of accidental damage and theft passes to the Customer when the Company (MST) hands over and gives possession of the goods to a carrier, courier or other bailee for the purposes of transmission to the Customer.
2. If the Customer is a Consumer, the risk of accidental damage and theft passes to the Customer when the Company (MST) hands over and gives possession of the goods directly to the Customer.
3. The handing over of the risk remains the same, even when the Customer is late in receiving the goods.

§ 7 Warranty

1. In the case of the Entrepreneur, we may at our own discretion correct justified defects by delivering a replacement product or by rectifying such defects.
2. In the case of the Consumer, the choice lies with the Consumer initially whether the subsequent improvement/performance is to be made by rectifying the defect(s) or by providing a replacement product. The Company (MST) is however entitled to decline the requested subsequent improvement/performance if it incurs unreasonable costs and if the alternative subsequent improvement/performance remains without any considerable drawbacks for the Consumer.
3. In case we fail to rectify the defect or deliver a new product, the Customer may cancel the contract or request a reduction in payment. However in the case of a minor infringement of contract, in particular in the case of minor defects, the Customer has no right to withdraw from the contract.
4. No warranty claim will be recognised unless the obvious defects are notified by the Entrepreneur in writing within two weeks after receipt of the goods. Punctual despatch suffices to comply with the time limit. The complete burden of proof rests with the Entrepreneur for all eligibility criteria, in particular for the defect itself, the time of identifying/declaring the defect and the punctual notice of defects. The Consumer must inform us in writing concerning the obvious defects, within two months of the date to when the condition of the goods, contrary to the contract, was established. The access of information by the Company (MST) is relevant for meeting the cancellation limit. If the Consumer fails to supply this information, the Consumer will lose the warranty rights two months after establishing the defects. This does not apply in the case of fraudulent intent by the seller. The burden of proof for the time of establishing the defects rests with the Consumer. If the Consumer has been persuaded to buy through unfounded statements from the manufacturer, the burden of proof lies with the



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Consumer for his purchase/buying decision. In the case of used/second hand goods, the burden of proof lies with the Consumer for the defectiveness of the item.

5. Should the Customer choose to cancel the contract due to title defect or material defect after failure to rectify the defect, he is not, in addition, entitled to claim for damages because of the defect. Should the Customer choose compensation for damages, after failure to rectify the defect, the goods remain with the Customer if this is reasonable to the Customer. The compensation is limited to the difference between the purchase price and the value of the faulty item. This is not applicable if the Company (MST) maliciously caused the breach of contract.
6. In the case of the Entrepreneur, the warranty period is valid for one year after delivery of the goods. In the case of the Consumer the limitation period is two years after delivery of the goods. In the case of used/second hand items, the limitation period is one year after delivery of the goods. This is not applicable if the Customer has not pointed out the defect in good time.
7. In the case of the buyer as Entrepreneur, the product description is generally to be considered as the condition of the goods. Public comments, canvassing or publicity/advertising do not give alongside, a description of condition according to the agreement.
8. Should the Customer receive an unsatisfactory set of assembly instructions, the Company (MST) is simply entitled to deliver a satisfactory set of assembly instructions, and to do this only if the incompleteness of the assembly instructions is preventing the correct assembly of the item.
9. The Customer does not receive from the Company (MST) any guarantees relating to legal issues.

§ 8 Limitation of Liability

1. In the case of a slightly negligent breach of duty, depending on the type of goods, liability is limited to the proximate, average damages which are specific to the contract and foreseeable at the time the contract was concluded. This also applies in the case of a slightly negligent breach of duty of our legal representatives/factors and vicarious agents. Towards Entrepreneurs, we are not liable for a slightly negligent marginal breach of contract.
2. The preceding liability limitations do not concern customer claims of product liability. Furthermore, the liability limitations do not apply to damages resulting from injury to life, limb or health.
3. Reimbursement of expenses claims from the Customer relating to defects expire one year after delivery of the goods. This does not apply if this is due to wilful misconduct/gross negligence on our part, as in the case of damages resulting from injury to life, limb or health.

§ 9 Intellectual Property Rights

1. All developments, constructions and other proposals and documents generated by MST, remain our intellectual property. Documents are to be released on request only. The developments and construction proposals are to be treated confidentially and are only allowed to be passed on to a Third Party with our written consent. However, if this happens, the Customer will be charged compensation for damages at a fixed rate of one hundred times the value of the object. MST reserve the rights to enforce further claims for damages. The Customer is entitled to prove that no damage has arisen or that the damage is minimal.
2. Insofar that we manufacture or put into production articles based on samples, models drawings or other documents, provided by the Customer, the Customer guarantees that the trade/patent mark rights of a Third Party are not violated. If the production or delivery is prohibited from a Third Party with reference to the trade mark rights, we are entitled without obligation to check the legal status, to discontinue any further jobs and to claim for damages, if the negligence lies with the Customer. In this context, the Customer shall indemnify/absolve us immediately from and against all existing claims brought by a Third Party.

§ 10 Concluding provisions

1. Insofar as nothing to the contrary is agreed, in these Terms and Conditions of business, the provisions contained in the Civil Code of the Federal Republic of Germany shall apply.
2. In the case of the Customer as trader/businessman, body corporate organised under public law or special fund under public law, the sole place of venue for all disputes among the parties arising out of and in relation to this business relationship is Lüneburg. Unless legal regulations stipulate another place of venue. The same applies if the Customer does not have a general legal venue in Germany or if a residence or habitual abode at the time of the filing of the complaint is not known.
3. Should individual provisions of the contract/agreement, the Terms and Conditions included, are to become or will become partially or completely invalid with the Customer, the validity of the remaining provisions will hereby not be affected. The partially or completely ineffective clause shall be replaced by a new clause, whose economic success comes as close as possible to the ineffective clause.