

General Sales and Delivery Conditions of MBL GmbH & Co. KG

I. General Terms, Scope

1. As far as not mentioned otherwise in our Quotations and Order Confirmations all our deliveries and performances are carried out exclusively in accordance to our General Sales and Delivery Conditions. They are part of all contracts, which are settled with the Customer/Purchaser for deliveries and performances. Contrary or divergent Customer/Purchaser conditions to this Sales and Delivery Conditions are valid only under expressly written allowance by the MBL GmbH & Co. KG (following called MBL). These Delivery and Sales Conditions are valid also when we in knowledge of contrary or divergent conditions of the Customer/Purchaser carry out the delivery or performance without reservation.
2. General Conditions of the Customer/Purchaser (Sales-, Purchasing Terms and so on) are valid only so far as MBL expressly agrees to them. They shall not become content of the contract by acceptance of the order.
3. Oral agreements before or during the conclusion of the contract shall be valid only by a written confirmation of MBL. Special contract agreements of the parties, which are reached in written form are valid. The effectiveness of all the other terms and conditions is hereby not influenced.
4. Arising rights of the Customer/Purchaser caused by the contract are not transferable. Assignments are not permitted without previous written acceptance by MBL.

II. Offers, Quotations, Documents, Copyrights

1. A contract is being achieved only with the written Order Confirmation of MBL. All offers and quotations are without engagement (subject to be free) until we have sent out our written Order Confirmation. We reserve the right to intermediate sales.
2. All references in our offers to documents, such as for example catalogues, printed literature, illustrations, drawings, weights and dimensions are nearly only (approximately) so far as they are not expressly mentioned as a definite promise. They are no guaranteed features. Changes in regard to technical improvement are expressly under reservation.
3. For all offers, drawings and other documents – in electronic form as well – which we hand over to the Customer/Purchaser or which we open and make accessible in any other way, MBL reserves the complete rights of ownership, copyrights and patent rights respectively other trade rights or rights to use. The transfer and passing over of these documents to a third party is not allowed without previous written permission by MBL.

III. Delivery, Delivery Delay

1. Decisive for the delivery content and delivery scope of the goods and services is our written Order Confirmation. Other agreements and changes need to be confirmed in written form.
2. The delivery time is confirmed in the Order Confirmation. Delivery time and delivery dead lines are without obligation, as far as they are not expressly and written down within the contract documents and hereby as definite promise confirmed.
3. The delivery time limit starts with the date of our Order Confirmation, however not before clarification of all commercial and technical questions, not before the Customer/Purchaser supplied MBL with all necessary documents, authorizations, sample material and measuring devices and not before the receipt of the down payment, which was agreed by the contract and confirmed by the Order Confirmation. In case the Customer/Purchaser fails to fulfil his contractual duties in due time, the delivery time will extend in accordance.
4. The delivery time can be delayed through force majeure (act of God) or other reasons, which are not under MBL's responsibility, (for example demonstrations/labour disputes, company breakdowns through no one's fault, delayed or wrong deliveries of sub-suppliers, administrative directions) In this case, MBL will inform in due time the Customer/Purchaser about the new delivery date.

5. For additional belated orders or changes of the contract the originally confirmed Delivery time is no longer valid and needs to be newly agreed to and confirmed.
6. The delivery time is considered as being kept, as soon as the delivery item has left the MBL plant or the Customer/Purchaser is informed about the dispatch readiness.
7. In case the Customer/Purchaser causes a delay for the acceptance or the despatch of goods is delayed due to the Customer's request or the Pre-Acceptance is delayed due to the Customer's request or by his responsibility (blame) so MBL is entitled – starting one month after the announcement of delivery- i.e. pre-acceptance readiness to charge the costs, which appear for the warehousing, by storage at MBL; however MBL is entitled to charge at least 0,5 % of the stored part's delivery value for each month. MBL is authorized to dispose/use the delivery good otherwise after a unsuccessful appropriate extension to time, to deliver to the Customer/Purchaser within a appropriate extended period of time or to withdraw from the contract.
8. Unless otherwise written in the Order Confirmation all deliveries are carried out ex works (EXW) MBL GmbH & Co. KG, Barbing (in accordance to the Incoterms 2000). In case the transfer to the carrier is delayed caused by circumstances which are upon the Customer/Purchaser's responsibility, the risk is passed over to the Customer/Purchaser with the day of the forwarding readiness.
9. Partial deliveries are allowed. Additional shipping costs, which appear due to the Customer's required partial deliveries must be borne/paid by the Customer/Purchaser.
10. Is delivery delay caused by MBL – pre-condition hereto is a adequate acceptance of the delay by the Customer/Purchaser of at least 20 working days so is a claim/right of the Customer/Purchaser impossible in case of a minor carelessness/negligence. In case of a major carelessness/negligence a claim due to delay is limited to the replacement of the contract-typical, foreseeable disadvantage excluding a missing profit. As for the rest our conditions in point VII, 6-12 are valid.

IV. Retention of Ownership

1. All by MBL delivered goods and services shall retain MBL ownership until all demands and charges, including all extra side costs are fulfilled. In case the Customer/Purchaser conducts contrary to the contract – especially in case of payment delay/default or legal settlement- or bankruptcy procedure is applied for the Customer/Purchaser's assets, MBL is entitled to take back immediately the goods of reservation without judicial assistance i.e. to ask for the transfer of claims against a third party. Already herewith the Customer/Purchaser assures his approval that MBL or MBL's representatives or agents have the right at any time to set foot on their properties and their rooms in which our goods are assumed to be and can be collected. Until our total demands/charges/claims are completely paid MBL retains the right to keep back all objects, which the Customer/Purchaser left with MBL.
2. By withdrawal or i.e. seizure of the goods of reservation an automatic withdrawal of the contract without written declaration of MBL is not carried out. The application to open an insolvency process at the Customer/Purchaser entitles MBL to withdraw from the contract and to ask to return the delivery objects immediately.
3. The Customer/Purchaser is not allowed to pawn nor to transfer as securities the delivery object unless payment was done completely. In case of seizure or other intervention of third parties the Customer/Purchaser needs to inform MBL immediately in written form, so that MBL can make complaints (institute proceedings) in accordance to §771 ZPO. All expenses which arise due to a judicial or out-of-court settlement must be borne/paid by the Customer/Purchaser.

V. Uncertainty Plea/Demurrer

When the contract is concluded and it is recognizable that MBL's claims for payment is endangered by a lack of efficiency of the Customer/Purchaser so MBL is entitled to determine an adequate period of time in which the Customer/Purchaser needs to deliver the securities. After this set period of time is unsuccessfully expired, MBL is entitled to withdraw from the

contract. This is also valid when MBL has no duties in advance, but in order to handle an order in due time, MBL needs to carry out preparation activities. In this case, confirmed delivery times shall prolong for the same period of time, which was passed by between set period of time and delivery of the securities.

VI. Price, Validity, Payment

1. Unless otherwise agreed to in our Quotations and Order Confirmations our prices are net prices in Euro, Ex Works (EXW) MBL Barbing, unpacked (in accordance to Incoterms 2000), within Germany (domestic delivery) plus legally valid turn over tax. Deliveries in foreign countries/abroad are duty unpaid und taxes unpaid. The legal control conditions in regard to the consequences at payment default are valid.
2. Unless otherwise agreed to in our Quotations and Order Confirmations our Invoices are due for payment within 14 days after Date of Invoice, without any discount. All bank charges and expenses which accrue need to be borne/paid by the Customer/Purchaser.
3. Partial Deliveries shall be invoiced immediately and are due for payment – each single one – independently to the final despatch of the complete delivery. In case it is the Customer/Purchaser's wish to get partial deliveries he needs to pay for the despatch- and packaging costs for each single partial delivery.
4. Customer/Purchaser shall not be entitled to any rights of set-off or retention, unless his counterclaims have become legally effective, are uncontested or have been acknowledged by MBL. In case the right for retaining/keeping back payment exists, the Customer/Purchaser is entitled to keep back payments only to the extent till the counterclaims are settled. The scope must be in a adequate relation/proportion to the counter claims.
5. Checks and discountable drafts are accepted only after special agreement. All arising bank charges and expenses shall be charged to the Customer/Purchaser.

VII. Responsibility for Defects

1. Pre-condition to claim for deficiency is that the Customer/Purchaser met the investigation rules as per §377 HGB.
2. In case of a legitimate immediate claim for deficiency MBL is entitled – free choice – to eliminate the deficiency or to deliver the good without deficiency.
3. If attempt to solve the problem fails 3 times, then the Customer/Purchaser is entitled on it's own choice, to withdraw or to ask for a depreciation. If the claim is not remarkable, Customer/Purchaser has the right for depreciation only.
4. Exception to guarantee are wear and tear parts, as for example cutting- and marking dies, sealing skids, heating cartridges, bearings, washers, cutting knives, cutting plates, centring masks, guiding bars and so on.
5. MBL is not responsible for faults which appear by parts which are not delivered or assembled by MBL, at changes without MBL's written agreement, when repair work is carried out not professionally by the Purchaser or a third party or at usual wear and tear.
6. We are reliable in accordance to the legal instructions, as far as the Customer/Purchaser brings to bear claims for damages which are based on intention or gross negligence. In case MBL cannot be blamed for a contract breach upon purpose the liability is limited to the foreseeable typical appearing damage.
7. We are reliable in accordance to the legal instructions as long as we take blame for a remarkable negligence of the contract duty; in this case the liability is limited to the foreseeable typical appearing damage.
8. Claim for compensation (lost profit, production break down, recall expenses and so on) and consequential damages of any type and way are herewith expressly excluded. This is not valid at intent.
9. The liability because of guilty injury of life, of body or health remains as not affected. This is also valid for the absolute liability in accordance to the product liability law.
10. As far as not directed different in the above mentioned paragraphs, the liability is excluded.

11. Further liability for damage compensation than mentioned under points 1-10 is – without considering the juristic nature of the maintained claim – excluded. This is especially valid for claims due to fault at contract conclusion, because of other dereliction of duty or because of offence claims for Material damages in accordance to § 823 BGB.
12. As far as the compensation liability against us is excluded or limited, so it is also excluded or limited for a personal liability of our clerks, employees, representatives and fulfilment assistants.

VIII. Limitation Period

1. All claims of the Customer/Purchaser – due to what so ever reasons of law – come under the sate of limitation after 12 months. For damage claims as mentioned in VII 6. the legal time limits are valid.

IX. Trade Mark Rights

1. The copyrights and possibly commercial, industrial patent (trademark) rights for all developed designs, sketches, drawings, Software and devices are entitled to us – developed by us or by a third party upon our order – even though the Customer/Purchaser has taken over the expenses.
2. We do not experience any knowledge of any trademark rights of third parties, which shall limit the use of the purchased goods. However we are not held liable for the case, that goods, delivered by us offend against a trademark right within the place of destination.

X. Software

1. To the extent that MBL provides Customer/Purchaser with Software, the following shall apply: MBL shall grant Customer/Purchaser a non exclusive right to use the provided Software incl. its documentation. Software is left for sole use on the object of the contract. To use the Software on more than one system is prohibited.
2. Duplication, revision or conversion of the object code into the source code by Customer/Purchaser is allowed only with expressly written permission.
3. All other rights on Software and documentations including all copies remain with MBL i.e. with supplier of Software. To place sub-licenses is prohibited.
4. In case of selling the object of contract the Customer shall be entitled to transfer the provided Software to the Purchaser.

XI. Other provisions - regulations

1. German Right is effective exclusively. The application of UN-agreement relating to contracts on the international sale of goods shall not be excluded by virtue of the above choice of law.
2. Place of fulfilment for deliveries and for all other mutual claims is MBL's place of business.
3. The legal domicile is in all cases, in fact of all future claims, arising out of the business including claims out of cheques and other documents as well is the Lower District Court and the Superior Court of Regensburg.
4. In case one of the before mentioned instructions is ineffective, so shall the effectiveness of the acceptance provision and the contract not be influenced hereby. Any instructions which become ineffective shall be replaced by revisions, whose target shall have the same economical success. As far as instructions did not become part of the contract, the content of the contract then relates to the legal regulations.
5. This General Sales- and Delivery Conditions are valid as well for carrying out Service activities by MBL. Please see hereto our Additional Terms and Conditions of Service for the rendering of repairs, servicing, assembly and so on.

Additional Terms and Conditions of Service for the rendering of repairs, servicing, assembly, etc.

I. Scope of application

These terms and conditions of service apply in addition to the General Sales- and Delivery Conditions of MBL GmbH & Co. KG (following called MBL) for all work to be performed by MBL such as machine set-up, repairs, servicing, maintenance, etc

II. Costs and risks

1. Any work is performed at the Customer's/Purchaser's risk. The Customer/Purchaser shall compensate all expenses accrued through this by MBL, to include any overtime, Sunday or holiday work and the time required for troubleshooting. This also applies to incidental travel and waiting time. No exception to this shall apply unless expressly agreed in writing.
2. Should the work not be performed, particularly if due to the fact that the reported error does not occur during inspection, spare parts cannot be obtained, the Customer/Purchaser has culpably missed the appointment or the contract was terminated during performance, the Customer/Purchaser shall then bear all accrued expenses. The object to be repaired should be returned to its original state only at the Customer's/Purchaser's express wish in return for compensation of outlay, unless the work performed was unnecessary. In such case MBL shall not be liable for any damage caused to the object to be repaired or for the infringement of contractual subsidiary obligations and consequential damage, irrespective of the underlying legal foundation.
3. When work performance takes place at MBL's factory the delivery and return delivery of the object to be repaired, to include possible packaging and loading, shall be carried out at the Customer's/Purchaser's expense, otherwise the object shall be delivered by the Customer/Purchaser to MBL's factory and immediately collected by the Customer/Purchaser upon completion of the work. The Customer/Purchaser shall bear the transportation risk.
4. Should a binding cost estimate be desired prior to performance, the Customer/Purchaser should expressly request this in writing. Unless otherwise expressly agreed to, a cost estimate of such nature will only be binding when made in writing.

III. Working conditions

The Customer/Purchaser shall take all measures necessary to ensure the safety of persons and property at the assembly area and shall provide appropriate working conditions. He shall support the assembly personnel in the performance of their work at his own expense.

IV. Technical assistance provided by the Customer/Purchaser

The Customer/Purchaser shall be obligated to provide technical assistance at his own and in particular for:

- a. The undertaking of all construction work in sufficient time prior to work start, so that work may be immediately commenced upon arrival and without delay. In those rooms in which machinery is located the Customer/Purchaser shall ensure that the substructure is completely dry and set, that the ground is stable and that the rooms are suitably protected against adverse weather influences, well lit and sufficiently heated. The rooms should have appropriate entries (door size etc.) and the environment should be suitable and appropriate for the assembly and operation of the machinery.
- b. The provision of dry, illuminable and lockable rooms, which are constantly surveyed and monitored, for the storage of machine parts, materials, tools, etc.
- c. The provision of heating, illumination, operating resources, including the required connections.
- d. The provision of qualified employees (employee teams and skilled employees, e.g. electricians) in the amount deemed necessary by MBL and for the required assembly time.

- e. The provision of the necessary appliances and required materials, e.g. sample parts for the assembly and commissioning of the machinery.
- f. If applicable, the provision of suitable clean clothing and special cleaning agents (e.g. for clean rooms).
- g. The loading and transport of the necessary objects for assembly according to the type of assembly.

Should the Customer/Purchaser fail to meet his obligations, MBL shall be authorized, but not obligated, to undertake the actions incumbent upon the Customer/Purchaser in his place and at his expense. MBL's statutory rights and claims remain unaffected.

V. Remote maintenance

1. The Customer/Purchaser shall keep the necessary equipment to perform remote maintenance (elimination of equipment faults, remote diagnostics etc.) on his systems.
2. If necessary, the remote diagnostics equipment shall be put into operation by the Customer/Purchaser based on an advance telephone call. The Customer/Purchaser shall bear the responsibility for MBL being allowed access only to those data, which may be disclosed to him or for which appropriate authorizations exist. Any of the Customer's/Purchaser's data made accessible to MBL in this context may be used only for diagnostic purposes. Any data saved at MBL's location shall be immediately deleted once the diagnostic work has been completed. The Customer/Purchaser shall employ suitable means to ensure that data may only be accessed when expressly released by the Customer/Purchaser and that the connection is interrupted once work has been completed.
3. For the duration of the remote maintenance the Customer/Purchaser shall provide appropriately qualified and telephonically available skilled employees, who are familiar with the machinery and who undertake the necessary activities onsite.

VI. Time for performance

1. As far as a time for performance had been expressly agreed in writing, observance of said time presupposes that the Customer/Purchaser meets the obligations incumbent upon him. The time shall be considered as having been observed if the work performance has commenced prior to its expiration.

VII. Replacement compensation by the Customer/Purchaser

1. Should MBL's appliances or tools be damaged during shipment or at the assembly area through no fault of MBL or should they be lost through no fault of MBL, the Customer/Purchaser shall then be obligated to compensate such damage. Any damages attributable to normal wear and tear remain out of consideration.

VIII. Payment

1. Payments pertaining to work based on these terms and conditions shall be due immediately following performance of the work.
2. MBL is authorized to request an appropriate advance payment at the time of conclusion of contract.
3. The valid version of MBL's price list applies at all times.

IX. Final Condition

1. In addition hereto MBL's General Sales- and Delivery Conditions are valid as well.