

# Terms & Conditions of Sale and Delivery of Piping-Service Steuer Handelsgesellschaft mbH



## I. General / Application of the Terms

1. These Terms & Conditions of Sale and Delivery shall exclusively apply to any and all delivery contracts, in which we are involved as supplier /seller, viz. towards entrepreneurs, legal entities under public law and special funds under public law in the sense of section 310 (1) BGB (German Civil Code). We shall acknowledge any terms of the orderer that are contrary to or deviate from our Terms & Conditions of Sale and Delivery only if we explicitly consent to their application in text form.
2. These Terms & Conditions of Sale and Delivery shall also apply to all future transactions with the orderer to the extent that these are legal transactions of a related nature.
3. The Incoterms, as amended, shall prevail for the interpretation of commercial terms.

## II. Offer and Contract Conclusion

1. All parts of our offers shall be subject to change. Declarations of acceptance, POs, assurances and all other agreements must be confirmed by us in text form to be legally effective.
2. Verbal side agreements shall be valid only if they are confirmed in text form. This shall also apply to the waiver of the text form.

## III. Scope of Services

1. Our order confirmation given in text shall exclusively prevail for the scope of services.
2. The co-delivery of inspection documents ("certificates") under EN 10204 must be agreed in text form beforehand. In case of an agreement, we shall be entitled to hand a copy of the documents over. Unless any other agreement was made in text form, the fee for inspection documents shall be governed by our price list or the price list of the respective issuer.
3. Public statements, drawings, illustrations, measures, weights, descriptions and other technical data shall represent approximate values. They shall not be binding for us, unless they are expressly confirmed in text form. Technical changes shall also remain reserved during the delivery period.
4. We reserve the titles and copyrights to all documents surrendered to the orderer in connection with the order placement, also in electronic form, such as calculations, drawings, illustrations, measures, weights, descriptions and other technical data. Such documents or data must not be made accessible to third parties, unless we give the orderer our express written consent in text form to that end.

## IV. Prices, Payment, Collaterals

1. Unless agreed otherwise in text form, our prices shall apply, at our option, ex delivery works or warehouse, exclusive packaging, freight, postage, insurance and other ancillary costs, plus VAT. The prices shall be denominated in euros.
2. Our invoices shall be due for payment upon receipt. Default of payment shall occur 30 days after receipt of the invoice without a reminder being required. We shall charge default interest in the amount of 9% points above the basic rate of interest as from the occurrence of default. We shall remain at liberty to furnish proof of a higher interest payment towards our banks. In this case, we may assert the interest to be paid to us to our banks as default damage in lieu of the legal interest rate of 9% points above the basic rate of interest.
3. The orderer shall be entitled to set-off and retention rights only for uncontested or finally and non-appealably established counterclaims.
4. We shall be entitled to collaterals customary in terms of nature and scope for our claims, also to the extent that they are conditional or limited.

## V. Design Changes

We reserve the right to make technical improvements and design changes due to further development to our products. We shall not be obliged to make design changes and technical improvements to products already delivered.

## VI. Shipping and Passing of Risk

1. Unless agreed otherwise in text form, delivery shall be performed within the agreed delivery period, at our option, FCA warehouse or delivery works.
2. The goods shall basically be delivered unpacked and not protected against rust. Any packing of the goods must be agreed separately.
3. Any transport packaging and all other packaging shall not be taken back. The orderer shall be obliged to dispose of packaging at the orderer's own expense.
4. The risk shall pass to the orderer upon handover of the goods to the carrier; the risk of accidental destruction and / or accidental deterioration of the goods shall pass to the orderer when leaving the works / warehouse at the latest. This shall apply irrespectively of who bears the freight costs.
5. Goods reported ready for shipment as per contract must be called off by the orderer without delay. Where no call-off is made without delay, we shall be entitled, after a one-time reminder, at the orderer's expense and risk and at our option, to send the goods to the orderer or to store the goods at our discretion and to invoice the costs incurred to that end, just as to invoice the claim for the goods, even without delivering them, where appropriate.
6. Where the delivery of the goods is delayed for reasons for which the orderer is responsible, the risk shall pass to the orderer upon notification of the readiness for shipment.

## VII. Delivery Period

1. Delivery periods and delivery dates shall always be indicated only approximately and non-bindingly. Expressly agreed delivery periods shall start with the date of our written order confirmation. They shall extend by the period by which the orderer is in default with meeting cooperation duties towards us.
2. Where delivery deadlines or delivery dates are not complied with due to circumstances attributable to
  - a) force majeure, e.g. mobilisation, war, acts of terrorism, riot or similar events (e.g. strike, lockout),
  - b) operational disruptions, in particular due to regulatory measures, interruption of the supply chains, employee absence due to issued covered by the Federal Infection Protection Act, virus and other attacks on our IT system, to the extent that these are successful despite exercise of the ordinary care for protective measures,
  - d) obstacles due to national or international regulations of the foreign trade legislation or due to other circumstances for which we are not responsible,
  - e) untimely or improper supply of our company,
  - f) circumstances for which the orderer is responsible,the deadlines or dates shall extend reasonably.
3. We shall be entitled to partial deliveries where a partial delivery can be reasonably expected from the orderer.
4. The orderer may demand a contractual penalty only if such was agreed separately and in text form. Claims for damage suffered by the orderer also from delayed delivery, including, in particular, such from culpable breach of contract, tort committed by negligence and for consequential damage, shall be basically excluded. This shall not apply to the extent that liability for contract-typically foreseeable damage is mandatory for legal reasons in cases of wilful intent or gross negligence, for assurances or for violations of essential contractual obligations by ordinary negligence.
5. The orderer shall bear the extra costs of any interruption of or delay in the services incumbent upon that is caused by the orderer.

## VIII. Warranty

1. Warranty rights of the orderer shall be subject to the orderer having properly met the obligations of inspection and notification of defects owed by the orderer under section 377 HGB (German Commercial Code).
2. Claims for defects shall become statute-barred in 12 months after successful delivery of the goods delivered by us to the orderer. Damages claims for wilful intent and gross negligence as well as for injury to life, body and health based on a breach of duty by wilful intent or negligence on our part shall be governed by the legal limitation period. Our consent must be obtained before any return of the goods.
3. Where, despite all due care taken, the delivered goods exhibit any defect that had already been existing upon passing of risk, we shall, at our option and subject to timely notice of defects, deliver subsequently or deliver replacement goods. We must always be given the opportunity to perform cure within a reasonable deadline. Recourse claims shall remain unaffected by the regulation above without limitation.
4. If cure fails, the orderer may withdraw from the contract or reduce the remuneration notwithstanding any damages claims.
5. Claims for defects shall not exist for only minor deviation from the agreed nature, for only insignificant impairment of usability, for natural wear or tear just as for damage caused after the passing of risk as a result of incorrect or negligent handling, excessive use, inappropriate operating materials, defective construction work, unsuitable building ground or due to particular external influences not provided under the contract. Where corrective maintenance work or changes are improperly performed by the orderer or third parties, no claims for defects shall exist for these and the resulting consequences either.
6. Claims of the orderer due to the expenses required for cure, in particular transport, workmen's travel, work and materials costs, shall be excluded to the extent that the expenses increase since the goods delivered by us have been subsequently transported to a place other than the orderer's establishment, unless such transport complies with their intended use.
7. Recourse claims of the orderer towards us shall exist only to the extent that the orderer has not made agreements with its buyer beyond the legally mandatory claims for defects. Furthermore, para. 6 shall apply mutatis mutandis to the scope of the orderer's recourse claim against the supplier.

# **Terms & Conditions of Sale and Delivery** **of Piping-Service Steuer Handelsgesellschaft mbH**



## **IX. Retention of Title**

1. We retain title to any and all delivery objects (goods subject to retention of title). Title to the delivery objects shall remain with us until complete payment of the purchase price plus any ancillary costs. This shall further also apply to claims arising in future, also from contracts concluded simultaneously or later, up to their settlement, even if individual or any and all of our claims have been included in a current account and the balance has been struck and accepted.
2. The orderer shall be entitled to reallocate the goods subject to retention of title in the ordinary course of business. The orderer shall herewith already now assign to us the full amount of all claims arising from the reallocation. If goods subject to retention of title are reallocated after processing or combination with objects to which the orderer retains exclusive title, the orderer shall already now assign to us the full amount of the receivables arising from the reallocation. Where goods subject to retention of title are alienated by the orderer unprocessed or after processing or combination together with goods to which the orderer does not retain title, the orderer shall already now assign to us the receivables arising from the reallocation in the amount of the value of the goods subject to retention of title with all ancillary rights and with priority over the remainder. We shall accept the assignment. The orderer shall be authorised to collect the receivables even after any assignment. This shall not affect our authority to collect the receivables ourselves. We undertake, however, to not collect the receivables ourselves as long as the orderer properly meets their own payment obligations and other obligations towards us. We may require the orderer to announce the receivables assigned to us and their debtors, to provide us with all information required for the collection, to hand over the associated documents to us and to notify the debtors of the assignment.
3. The orderer shall perform any treatment or processing of the goods subject to retention of title for us without any obligations arising for us. Where the goods subject to retention of title are processed, combined, intermixed or mingled with other goods not belonging to us, the resultant co-title share in the new thing shall be due to us at the ratio between the value of the goods subject to retention of title and the remaining treated or processed goods at the time of processing, combination, intermixture or mingling. If the orderer acquires sole title to the new thing, the orderer shall herewith already now grant us co-title to the new thing at the ratio between the value of the treated or processed, combined, intermixed or mingled goods subject to retention of title. The orderer shall safekeep the new thing free of charge for us.
4. If the orderer is in default with their own payments, the orderer shall no longer be entitled to collect the assigned receivables. The orderer must immediately pay collected amounts to us to the extent that our receivables are due. To the extent that this does not happen, the collected amounts shall be under our title and must be kept separately. If the orderer is insolvent, we shall be entitled to a substitutional separation claim.
5. We undertake to release the collaterals due to us at the orderer's request to the extent that the realisable value of the collaterals exceeds by more than 10 per cent the receivables to be collateralised. The selection of the collaterals to be released shall be incumbent upon us.
6. If the orderer resells the goods subject to retention of title under retention of title, we shall remain owners of the goods subject to retention of title until complete payment of all receivables from the business relationship. The orderer shall herewith already now assign to us the receivables against the orderer's buyers for surrender of the goods subject to retention of title and all other rights against the orderer's buyers. We shall accept the assignments. We may demand surrender of the contracts concluded with third parties.
7. If the delivery objects are attached by a third party, the orderer shall be obliged to point executors to our title and to notify us no later than on the 3rd day after the attachment, presenting the attachment report. The orderer shall be liable in accordance with the legal provisions for all costs arising from our intervention. We shall not have any obligation to intervene.

## **X. Partial Voidness**

If individual provisions of the respective contract or these terms are or become void or ineffective, this shall not change anything in the effectiveness of the remaining provisions. To close the arising loopholes, both contracting partners must behave in the manner following from the meaning and purpose of the respective contract and required to re-establish the balance between performance and consideration.

## **XI. Data Protection**

Any data about the orderer which becomes known to us in connection with this contract shall be collected, processed and used by us only for contract handling purposes. Such data shall include, in particular, names, authorised representatives, address, phone number, e-mail address or bank details of the orderer. Such data shall be processed under the concluded contract in line with the relevant data protection laws. Any data processing beyond the contract purpose shall not take place.

## **XII. Applicable Law, Place of Performance, Place of Jurisdiction**

1. The parties' legal relationship shall exclusively be subject to German law.
2. Place of performance for all deliveries and services as well as for all payments by the orderer shall be our company's seat, currently Ratekau.
3. Place of exclusive jurisdiction for all disputes arising from the legal relationship between the orderer and our company shall be the courts having local jurisdiction for our company's seat, currently the Eutin Local Court and the Lübeck State Court. We shall be at liberty to also sue the orderer at the orderer's place of general jurisdiction.