

Standard Terms and Conditions

Status 10/2007

Walcher Meßtechnik GmbH
Kirchzarten

1. General items

1.1. Walcher Meßtechnik GmbH – called supplier below – only sells according to the following sales terms and delivery conditions. These conditions apply for all business dealings with clients, even if there is no explicit reference to these conditions in later contracts. These conditions are considered as accepted at the latest on receiving the goods or the services. Clients' acknowledgements referring to their own terms and conditions are hereby rejected.

1.2. All necessary agreements for the execution of the contract between client and supplier are written down in this contract. There are no additional verbal agreements.

2. Completion of the contract

Offers of the supplier are subject to change. The contract is only accomplished when the supplier gives a written confirmation of order after receiving an order.

3. Subject terms of contract

3.1 Drawings, samples, weights and other specifications or similar information are only indicated approximately and only binding if this is said explicitly.

3.2 The supplier reserves copyright and, if applicable, further industrial or technical property rights for all offers, estimates and similar specifications. Therefore these documents and the information that is included within must not be passed on to a third party.

3.3 The supplier reserves the right to changes of design because of further technical development and improvement. An obligation to deliver older models does not exist.

3.4 The size and content of the delivery are determined by an offer or an estimate. Complementary, the supplier's conformation of the order is decisive.

3.5 If at first the supplier manufactures tools in order to produce the ordered goods, then there is no entitlement to these tools even after the end of the contractual relationship.

4. Prices

4.1 The prices are quoted ex works and generally freight costs, dispatch costs and packing are excluded. The prices do not include the applicable statutory value-added tax. For a subsequent reduction of orders, the adapted prices of the final scope of delivery are valid.

4.2 Except when otherwise stipulated, the supplier abides to the quotation price for sixty (60) days from the quotation date on. Otherwise, the prices given in the confirmation of order – plus the applicable statutory value-added tax – are applicable.

5. Delivery time

5.1 Delivery time starts with sending of the confirmation of the order and shall be subject to punctual supply to ourselves. The period of delivery is stated in the confirmation of the order. If the delivery or services are delayed for reasons the client is responsible for, the supplier is released from keeping the agreed delivery date. If the client does not immediately find a remedy upon a request from the supplier, then the supplier may demand compensation or give the client an appropriate period of time to

fulfill contract and bring default of acceptance about.

5.2 Apart from the legal consequences of default, one week after signalling readiness for shipment and passing of risk - or date of purchase respectively - the supplier may demand storage charges amounting to 5% of the invoice amount for every commenced month. These storage charges have to be paid as a lump sum of compensation, unless the client can prove that there is lower expenditure. Otherwise statutory provisions apply.

5.3 The delivery time is met, if the article of sale has left the works until the expiration of the delivery time or the client has been notified of the readiness for shipment. If inspection and approval is necessary, then the date of inspection and approval is decisive (alternatively the agreement for an inspection and approval), except for a legitimate refusal of approval.

5.4 Cases of force majeure (e.g. strike, lockout and other unforeseeable events) in the firm of the supplier or one of his subcontractors, release the supplier from observing the delivery date and, if the delivery or a service becomes impossible to fulfil, the supplier is entitled to withdraw from parts or the whole of the contract, accordingly. In important cases, the contractor is informed of the start and the end of such obstacles by the supplier as soon as possible. The above mentioned is also valid in case of an already existing default.

6. Passing of risk

Delivery ex works always takes place at the risk of the recipient. The risk is transferred as soon as the article of sale leaves the works, even if partial deliveries take place. If the dispatch is delayed for reasons for which the client is responsible, then the risk is transferred to the client from the date of readiness for dispatch on. In this case the rules from 5.1. (3) become effective.

7. Terms of payment

7.1 The delivery or service has to be paid to the supplier's designated account either after deductions within 30 days of issuing the invoice or within 10 days minus 2% discount.

Withholding of payments or offsetting because of possible client's counter-claims, which are contested by the supplier, are not possible. This does not apply to undisputed and admitted claims. Bills of exchange are not accepted.

7.2 The supplier has the right to credit payments against older debts first. The client will be informed about the offsetting. If there already have been costs and interest, an insufficient payment will first be taken into account on costs and then on interest. At last it is accounted to the principal claim.

7.3 If the client, contrary to 7.1., defaults with the payment, then the supplier is entitled to charge default interest on arrears of at least 8% above the ECB base rate without any further reminder. The seller's assertion of a higher claim for damages caused by default remains unaffected.

8. Retention of title

8.1 The supplier reserves the property rights for the delivery until all payments from the contract – including possible balance demands from the current account - have been made. In the case of garnishment or other interventions from third parties, the client has to inform the supplier in written form immediately.

8.2 Processing and alteration are always carried out for the supplier as manufacturer without any further obligations. If the (co-)ownership expires because of alteration, then it is already at present stipulated that the supplier's (co-)property of the new the jointly owned property is passed on to the supplier according to value percentage. Goods which are entitled to the supplier as (co-)property are referred to as conditional goods.

8.3 The client is entitled to resell the article of sale in regular business dealings. He cedes all receivables to the amount of the stipulated purchase price (including VAT) which arise from the resale to the buyer or third parties. It does not matter if the conditional goods are sold as processed or not. The supplier is entitled to the collection of receivables even after cession. The supplier's authorisation to collect the claims remains unaffected. However, the supplier commits himself not to collect as long as the client fulfils his payment obligations orderly. The supplier may demand that the client discloses the ceded claims and their debtors and all information and documentation, which is relevant for collection, to him and to inform the debtors of the cession. If the article of sale is resold together with articles not belonging to the supplier, then the client's claims to the buyer in the amount of the price, which was agreed between the supplier and the client, are considered to be ceded.

9. Warranty

9.1 After take-over, the claim of obvious defects will not be accepted.

9.2 Notice of defects have to be claimed within one year after any forms of passing the risk. After that period of time, no warranty claims will be upheld. The client shall reprehend the defects in written form immediately or at the latest within one week after the reception of the product.

9.3 The claimed products are to be sent back to the supplier, as rectifications of defects can only be made there. If the notice of defects is justified, a rectification free of charge or subsequent delivery will take place within a reasonable period of time. If the rectification fails, the client may demand diminution of the purchase price or withdraw from contract. However, the right to withdraw exists only if the defects are substantial. Replaced parts become property of the supplier.

9.4 Changes of the delivery or goods, which have been made beforehand and without the supplier's agreement, preclude all warranty claims and claims of defect. This applies too, if the supplier's operation or service notes are not followed.

9.5 All claims of defect against the supplier are not transferable and unseizable.

9.6 If the usage of an article of sale leads to an infringement of industrial or intellectual property rights in Germany, the supplier will procure the right for further usage at his own costs or modify the article of sale in such way that the infringement is remedied. If this is not possible under acceptable economic conditions, the client is entitled to cancellation and withdrawal. Under the mentioned prerequisites, the supplier is entitled to cancellation, too.

This warranty only exists, if

- the client informs the supplier about the infringement immediately - at the latest after one week - after the infringement becomes known,
- the client supports the supplier defending the asserted claims or helps with the modifications mentioned above,
- the supplier reserves all defensive measures, including settlements out of court,
- the defect of title is not based upon an instruction or an explicit wish of the client and

- the infringement is not based upon a change of the article of sale or the usage of the article of sale in a way, which is not according to contract.

9.7 Additional claims against the supplier, independent of the kind of neglect of duty (including in tort), are excluded as far as intention or gross negligence are not demonstrated. The exclusion of liability does not apply to claims according to the German and European product liability statutes.

10. Software license

If software is included in delivery, the purchaser is granted a non exclusive right to use the delivered software and its documentation. The software is left for usage on the intended article of sale. The usage of the software on more than one system is prohibited.

Copying, revising, translating or changing the object code into source code by the purchaser may only be done in a legally allowed scope (as defined by sec. 69 ff. of the German Copyright Act). The purchaser commits himself not to remove any of the manufacturer's information, (especially copyright information) and not to change any information without explicit prior agreement of the supplier. All other rights for the software and documentation (including the copies) remain with the supplier or the software supplier. Sub-licensing is not allowed.

11. Disposal of old appliances

The supplier is not obliged to take back old appliances as defined in section 3 of the German statute on electronic goods (Elektrogesetz). The taking back and disposal of old appliances, according to European directives and the said German statute, is the responsibility of the client.

12. Applicable law, place of jurisdiction

12.1 For this contract and all business relations between the supplier and the client, the laws and statutes of the Federal Republic of Germany - with exclusion of the United Nations Convention on Contracts for the international sale of goods - apply.

12.2 For traders, other legal persons and statutory corporations or special funds under public law, Freiburg i. Br. is the place of jurisdiction and venue for all claims arising from this contract.

13. Severability clause

In case any provision in this agreement shall be invalid, the validity of the remaining provisions shall not in any way be affected or impaired thereby. The parties agree to negotiate immediately a valid substitute provision that most nearly effects the parties' original intent.