

Conditions of sale and delivery of SONDERMANN PUMPEN + FILTER GMBH & CO. KG

1. General

Only the following conditions of sale and payment shall be applicable to any sale of goods or services by the SONDERMANN PUMPEN + FILTER GMBH & CO. KG company.

We herewith explicitly object to any terms and conditions of the buyer deviating from these conditions. Such deviation shall only be binding upon SONDERMANN PUMPEN + FILTER GMBH & CO. KG if the latter has agreed to it in writing.

With placing an order and taking delivery of the goods supplied by us, the buyer agrees to our conditions of sale and delivery. Buyers' data are saved and processed by computer insofar as they are required for the proper settlement of business transactions.

2. Quotation and delivery

Unless stated to be open for a limited period, our quotations are always subject to change without notice. Written confirmation of the order is the only basis of the contract of sale and provides the scope of delivery. This also applies if the buyer has asked for a specific quotation. Orders placed by the buyer shall be binding upon the buyer and shall be considered as being accepted when SONDERMANN PUMPEN + FILTER GMBH & CO. KG acknowledges receipt of the order. If a quotation is stated to be open for a limited period and includes a time limit for acceptance, the quotation shall be applicable unless the receipt of the order is acknowledged in due time. Any side agreements and modifications have to be confirmed by us in writing.

We reserve the right to modify the design and to change technical data and characteristics of our products insofar as these modifications are relevant for technical improvement. Any drawings, samples or other documents added to the request for a quotation or an order placed and left to SONDERMANN PUMPEN + FILTER GMBH & CO. KG shall remain the buyer's property. SONDERMANN PUMPEN + FILTER GMBH & CO. KG will be bound by these documents to draw up and quote the offer. When placing the order, the buyer has to notify in writing any later deviation from the first request for the offer and the quotation submitted by SONDERMANN PUMPEN + FILTER GMBH & CO. KG. In case that SONDERMANN PUMPEN + FILTER GMBH & CO. KG adds to a quotation documents of the kind mentioned above, SONDERMANN PUMPEN + FILTER GMBH & CO. KG will hold property in these documents.

The buyer undertakes to use these documents only in conformity with the contract of sale and not to reproduce or otherwise disclose their contents to third parties. Obvious mistakes, printing, arithmetical, spelling, and calculation errors are not binding upon SONDERMANN PUMPEN + FILTER GMBH & CO. KG and will not entitle the buyer to claim for damages.

3. Prices and payment

Prices are ex Cologne distribution centre, exclusive of legal VAT in force.

Packaging and forwarding costs are borne by the buyer. We reserve the right to adjust prices without notice if and when bases of calculation change. Payments have to be made within 14 days of the date of invoice less 2% cash discount or within 30 days net without any discount. Invoices for repair work have to be paid net immediately. We do not allow a cash discount of 2% if other accounts receivable by the buyer are overdue. In case of delay in payment, we reserve the right to claim interest at a rate of 8% above the base lending rate. In case of goods ordered at a price of less than €25.00 net, we will invoice the amount lacking as a surcharge for minimum quantities.

Withholding payments or setting them off against any counterclaims is only permitted if the buyer's counterclaims are admitted or have become final and absolute.

4. Delivery period

The delivery period shall run from the date of issue of the order confirmation. This, however, only applies if all technical and commercial details have been settled by that time. Delivery deadline is met when by that time, the goods to deliver have left the distribution centre of SONDERMANN PUMPEN + FILTER GMBH & CO. KG or the buyer has been informed that they are ready for shipment.

SONDERMANN PUMPEN + FILTER GMBH & CO. KG shall be allowed to effect partial deliveries or deliveries before the deadline. If SONDERMANN PUMPEN + FILTER GMBH & CO. KG is prevented from delivering by an event of force majeure, the period of delivery shall be extended by a reasonable length of time. Events of force majeure also include actions relating to industrial conflicts, especially strikes and lockouts. This also applies if a subcontractor suffers from unforeseeable difficulties and circumstances.

Delivery deadlines will only be kept if the buyer's contractual obligations have been fulfilled. Even if the circumstances mentioned above should occur when being already in default, SONDERMANN PUMPEN + FILTER GMBH & CO. KG will not be responsible for them. If delivery is delayed upon buyer's request, we are entitled to otherwise dispose of the goods to be delivered, once a reasonable period of time has passed. We are also entitled to deliver the goods to the buyer within a period of time extended respectively and to charge storage costs to the buyer.

5. Passing of risk

Goods are always delivered at buyer's risk. Also in case of partial deliveries or deliveries before the deadline, the risk passes to the buyer upon shipment of the goods. This also applies in case that SONDERMANN PUMPEN + FILTER GMBH & CO. KG itself delivers the goods using even its own vehicles.

If the shipment is delayed by circumstances the buyer is responsible for, the risk shall pass to the buyer from the day the goods are ready for delivery.

6. Reservation of title

Goods supplied to the buyer shall remain our property until payment in full of all current and future accounts receivable from any business relations with this buyer, irrespective of their legal ground.

Assertion of our right of reservation of title shall not be considered as withdrawal from the contract of sale. We are rather entitled to claim the return of our property and also hold all rights under the contract of sale, especially the right to claim payment for damages and loss of profit.

The buyer shall be revocably entitled to resell the goods delivered within the orderly course of business. Herewith, the buyer already assigns to us any claims due to the buyer for reselling unpaid goods, including any accessory rights, to the amount of the value of the goods unpaid. The claims so assigned will be used to cover all claims stipulated in paragraph 1 of this article. Upon our request, the buyer is obliged to inform us about the assignment to third parties of claims for payment to us and provide the information and hand over the documents necessary to assert our rights.

The buyer shall be allowed to process, transform and combine with other products the goods unpaid. Any processing or transforming work is made for SONDERMANN PUMPEN + FILTER GMBH & CO. KG. We will be actual owners of the products so processed or transformed, in proportion to the value of the goods delivered by us. The products processed or transformed will also be considered as unpaid goods. If goods are processed, transformed or combined with other things we do not own, we hold joint ownership in these new products, to the amount of the share represented by the ratio of the value of the unpaid goods processed, transformed or combined to the value of the new products. The share in the claim assigned to us will take priority over remaining claims.

When combining unpaid goods with real or movable property, the buyer also has to assign to us any claims for remuneration of this combination including any accessory rights, for security purposes, without further notice being required. To determine the amount of the claims assigned, the previous paragraph shall be applied respectively. We undertake to release the collateral securities we are entitled to, provided their value exceeds by more than 20% the claims to be secured and not yet satisfied.

The buyer shall not be entitled to dispose of unpaid goods otherwise than stipulated above or to pledge or transfer them as collateral securities in particular. In case of seizures, confiscations or other dispositions made by third parties, the buyer has the duty to specify goods in the property of SONDERMANN PUMPEN + FILTER GMBH & CO. KG. The buyer immediately has to inform us about any prejudice to rights in things and goods in our property. When acting in violation of the contract and being late with payments in particular, the total balance due will be payable immediately. In this case, we have the right to demand the buyer to surrender possession of unpaid goods and to collect them at the buyer's. The buyer shall no longer have the right to possess the goods.

7. Warranty claims

Subject to the provisions of Art. 9 of these conditions of sale and delivery, SONDERMANN PUMPEN + FILTER GMBH & CO. KG gives the following warranties of quality and of title to the exclusion of further claims:

SONDERMANN PUMPEN + FILTER GMBH & CO. KG at its option will remedy defects or replace defective parts free of charge, provided the defect results from conditions occurring before the risk passed to the buyer. Wear parts and defects in paint work caused by aggressive substances are excluded of this warranty.

When discovering a defect, the buyer has to notify us in writing without any delay and not later than 8 days after receipt of the goods. Unless the buyer gives us the chance and the time necessary to remedy the defect or supply replacement for the defective part, SONDERMANN PUMPEN + FILTER GMBH & CO. KG will not be liable for the consequences resulting thereof. If the buyer or a third party improperly remedies the defect, SONDERMANN PUMPEN + FILTER GMBH & CO. KG will not assume any liability for the consequences resulting thereof.

Within the limits of legal provisions, the buyer has the right to withdraw from the contract if SONDERMANN PUMPEN + FILTER GMBH & CO. KG with regard to all legal exceptional cases, refuses or fails to remedy the defect or if the correction of the defect is unacceptable to the buyer or if a reasonable deadline set to SONDERMANN PUMPEN + FILTER GMBH & CO. KG to remedy the defect or supply replacement has passed without results because of a material defect. When withdrawing from the contract, the buyer shall be entitled to be credited with no more than the amount invoiced. Any further claims for consequential damages or compensatory damages, for example, will be excluded. If the defect discovered is insignificant, the buyer shall only be entitled to reduce the purchase price, provided that a reasonable deadline set to SONDERMANN PUMPEN + FILTER GMBH & CO. KG to remedy the defect or supply replacement has passed without results because of a material defect. Apart from that, the buyer shall not have the right to reduce the purchase price. Further claims are to be

established as provided in Art. 9 of these conditions of sale and delivery.

Apart from that, we will not be liable for any damages caused by inappropriate or improper use or storage, incorrect installation by the buyer or third parties, unauthorised repair or service work or modifications, natural wear and tear, incorrect or careless handling and other circumstances beyond our control as well as unauthorised use or disregard of our operating instructions. Any modification to a product made by the buyer or third parties without prior written consent by SONDERMANN PUMPEN + FILTER GMBH & CO. KG and without any other authorisation to do so will also cancel the right to all warranty claims.

Any claims for defects of the goods delivered are subject to a limitation period of 12 months.

8. Impossibility of performance and default

The buyer is entitled to withdraw from the contract if complete performance becomes impossible for us before the risk passes to the buyer. The buyer will also be entitled to withdraw from the contract if it becomes impossible for us to deliver part of the goods ordered of the same kind and the buyer has a legitimate interest in refusing partial delivery. Otherwise the buyer is entitled to reduce consideration respectively. In case that we are in default of performance as stipulated in Art. 4 above, and the buyer sets us a reasonable deadline which we also do not meet, the buyer will be entitled to withdraw from the contract within the limits of legal provisions. If the buyer causes a default of acceptance, the buyer will be still obliged to give consideration. Any further claims for default in delivery are to be established exclusively as provided in Art. 9 of these conditions of sale and delivery.

9. Liability

If it is the fault of SONDERMANN PUMPEN + FILTER GMBH & CO. KG that the buyer cannot use the delivered goods in conformity with the contract because SONDERMANN PUMPEN + FILTER GMBH & CO. KG has failed or faulted to realise proposals and advices made before or after entering into the contract or has violated other accessory obligations under the contract like giving instructions for operation and maintenance of the goods delivered in particular, the provisions stipulated in Art. 8 and paragraphs 2 and 3 of Art. 9 of these conditions of sale will be applicable to the exclusion of any further claims by the buyer.

For all damages not incurred directly with or at the goods delivered, SONDERMANN PUMPEN + FILTER GMBH & CO. KG will not be liable for whatever legal grounds unless these damages are caused intentionally or by gross negligence by executive bodies or senior executives or by culpable injury of life, body or health or by defects that SONDERMANN PUMPEN + FILTER GMBH & CO. KG has concealed fraudulently or absence of which SONDERMANN PUMPEN + FILTER GMBH & CO. KG has guaranteed or by defects of the goods delivered, insofar as the company is liable within the limits of the Product Liability Act for personal injury and damage to property done to privately used goods.

10. Confidentiality

The buyer is obliged to treat strictly confidential all information, knowhow and other business secrets known to the buyer in connection with the execution of an order and not to disclose or otherwise make available to third parties any information, documents, technical documentation, drawings, sketches or any other material. SONDERMANN PUMPEN + FILTER GMBH & CO. KG undertakes to also treat confidentially any documents of the buyer.

11. Place of jurisdiction

Any dispute which may arise in connection with the contract shall be determined by the competent courts of Cologne, even if the buyer's place of residence or principal place of business is outside the Federal Republic of Germany.

We are, however, entitled to also take legal action at the buyer's principal place of business.

12. Choice of law

Any contract between us and the buyer shall be governed by and construed in accordance with German law to the exclusion of any bilateral or multilateral agreements concerning the sale of movable property and especially to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods CISG dated April 11, 1980. If any provision of these terms of sale and delivery or any term of the contract for delivery is or should become invalid, the remaining provisions shall nevertheless continue in full force.

It is agreed that the German text of these conditions of sale and delivery shall prevail in case of doubt.

As at January 2005.