

General Terms and Conditions of Sale of Fural Systeme in Metall GmbH

I. General Terms and Conditions of Sale

1. our terms and conditions of sale apply exclusively; we do not recognize any terms and conditions of the customer that conflict with or deviate from our terms and conditions of sale unless we have expressly agreed to their validity in writing.
Our Terms and Conditions of Sale shall also apply if we carry out the delivery to the customer without reservation in the knowledge that the customer's terms and conditions conflict with or deviate from our Terms and Conditions of Sale.
2. our terms and conditions of sale shall also apply to all future transactions with the customer without the need for a special agreement, unless express reference is made to the validity of new general terms and conditions of sale.
3. all agreements made between us and the customer for the purpose of executing this contract are set out in writing in this contract.
4. our terms and conditions of sale apply to entrepreneurs, legal entities under public law and special funds under public law.

II. Offer – Offer Documents – Conclusion of Contract

1. Our offers are subject to change and non-binding.
2. if an order is to be qualified as an offer, we can accept it within 4 weeks.
3. a contract shall only be concluded upon dispatch of our written order letter.
4. we reserve the property rights and copyrights to all documents prepared by us as well as to the know-how provided. The customer may not use, copy, reproduce or hand them over or disclose them to third parties without our consent. They must be returned immediately at our request and if the order is not placed.

III. Scope of Delivery – Delivery Time

1. our written order confirmation shall be decisive for the scope of delivery.
2. an agreed delivery period shall commence after complete and final technical approval of the delivery by the customer on the date of return of the unamended order confirmation by the customer. The delivery deadline shall be deemed to have been met if the delivery item has left our factory or readiness for dispatch has been notified by the time it expires.
3. we are entitled to make partial deliveries within the specified delivery period, provided that this does not result in any disadvantages for the customer.
4. if we have specified delivery deadlines and these have been made the basis for placing the order, these deadlines shall be extended by the duration of the hindrance if we are prevented from fulfilling this obligation by the occurrence of unforeseen events independent of the will of the parties, which we could not avert even with reasonable care according to the circumstances of the case (e.g. war, force majeure and industrial disputes, in particular strikes and lockouts, pandemics, etc.). This also applies if the unforeseeable circumstances occur at suppliers and subcontractors.
5. we shall be liable in accordance with the statutory provisions if a delay in delivery is due to an intentional or grossly negligent breach of contract for which we are responsible. If the delay in delivery is not due to an intentional breach of contract for which we are responsible, our liability for damages shall be limited to the foreseeable, typically occurring damage.
6. we shall also be liable in accordance with the statutory provisions insofar as the delay in delivery for which we are responsible is based on the culpable breach of a material contractual obligation; in this case, however, our liability for damages shall be limited to the foreseeable, typically occurring damage.

IV. Transfer of Risk – Transport

1. unless otherwise stated in the order confirmation, delivery 'ex works' is agreed. If dispatch is delayed as a result of circumstances for which the customer is responsible, the risk shall pass to the customer on the day of readiness for dispatch.
2. in the case of the transmission of data, the risk of loss or alteration of the data shall pass to the customer when the data is downloaded and sent via the Internet when our network interface is crossed.
3. if the customer so wishes, we will cover the delivery with transport insurance; the costs incurred in this respect shall be borne by the customer.

V. Prices – Payment Terms

1. unless otherwise stated in the order confirmation, our prices are 'ex works', excluding packaging; this will be invoiced separately.
The price stated in the order confirmation is binding.
2. the statutory value added tax is not included in our prices; it will be shown separately in the invoice at the statutory rate on the date of invoicing.
3. the deduction of a discount requires a special written agreement.
4. we are entitled to issue partial invoices for the partial deliveries permitted under clause III.3.
5. unless otherwise stated in the order confirmation, the net purchase price (without deduction) is due for payment within 14 days of delivery of the object of purchase and handover or sending of the invoice. The statutory regulations concerning the consequences of default of payment shall apply.
6. in the event of suspension of payment by the customer, the purchase price claim shall be due immediately. At the same time, all planned discounts, bonuses etc. shall be deemed to have lapsed, so that the customer must pay the gross prices invoiced.
In the event of default in payment or if our claims are jeopardised by a deterioration in the customer's creditworthiness, we shall be entitled to demand securities or to make outstanding deliveries only against advance payment or against the provision of securities. 7.
7. the customer shall only be entitled to set-off rights if his counterclaims have been legally established, are undisputed or have been recognised by us. Furthermore, the customer is only authorised to exercise a right of retention insofar as his counterclaim is based on the same contractual relationship.
8. we reserve the right to change our prices accordingly if cost increases occur after conclusion of the contract, in particular due to collective labour agreements or changes in material prices. We are obliged to proceed in the same way in the event of cost reductions. We shall provide the customer with evidence of both cost reductions and cost increases as soon as and insofar as they have occurred and shall take them into account in the event of cost increases and cost reductions.

VI. Warranty for Defects

1. claims for defects on the part of the customer presuppose that the customer has properly fulfilled his statutory obligations to inspect and give notice of defects.
If special requirements are placed on the quality of the purchased item or if the purchased item is to be shipped directly to third parties or abroad, the purchased item must be accepted at our factory. Failure to carry out a prior inspection shall be deemed to constitute acceptance of the contractual quality.
2. if the purchased item is defective, we shall be obliged, at our discretion, to provide subsequent fulfilment in the form of rectification of the defect or delivery of a new item free of defects. In the event of rectification of the defect, we shall only bear the expenses up to the amount of the purchase price.
3. if the subsequent fulfilment fails, the customer is entitled, at his discretion, to demand withdrawal or reduction.
4. liability for defects is excluded for used movable delivery items.
5. we shall be liable in accordance with the statutory provisions if the customer asserts claims for damages based on intent or gross negligence, including intent or gross negligence on the part of our representatives or vicarious agents. Insofar as we are not accused of wilful breach of contract, our liability for damages shall be limited to the foreseeable, typically occurring damage.
6. we shall be liable in accordance with the statutory provisions if we culpably breach a material contractual obligation; in this case, however, our liability for damages shall be limited to the foreseeable, typically occurring damage.
7. insofar as the customer is otherwise entitled to compensation for damages instead of performance due to a negligent breach of duty, our liability shall be limited to compensation for the foreseeable, typically occurring damage.
8. Liability for culpable injury to life, limb or health remains unaffected; this also applies to mandatory liability under the Product Liability Act.
9. unless otherwise stipulated above, liability is excluded.

VII. Joint and several liability

1. any further liability for damages other than that provided for in clause VI is excluded, irrespective of the legal nature of the claim asserted. This applies in particular to claims for damages arising from culpa in contrahendo, other breaches of duty or tortious claims for compensation for material damage.
2. the limitation according to the above clause 1 shall also apply if the customer demands compensation for useless expenses instead of a claim for damages in lieu of performance.
3. to the extent that our liability for damages is excluded or limited, this shall also apply with regard to the personal liability for damages of our employees, workers, staff, representatives and vicarious agents.

VIII. Retention of title

1. the delivery items shall remain our property until full payment has been made. In the event of breaches of duty by the customer, in particular default in payment, we shall be entitled to take back the delivery items immediately.
2. as long as the retention of title exists, the customer may not modify or rework the delivery item, pledge it, assign it as security or contractually grant third parties use of it without our written consent. In the event of infringement, the claims accruing to the customer shall be deemed assigned to us.
3. the goods subject to retention of title are also, insofar as they are connected with other objects of the customer or of a third party, as a rule an independent removable object and thus capable of special legal capacity. If the special legal capacity of the delivery item subject to retention of title is lost through combination with another item of the customer to form a new uniform item, we shall be entitled to co-ownership of the new item in the ratio of the value of the delivery item to the invoice value of the other item.

If, in the event of a combination, the customer's item is to be regarded as the main item, it shall be deemed agreed that the customer shall transfer co-ownership to us on a pro rata basis and shall store the new item for us free of charge.

IX. Confidentiality

1. the customer hereby irrevocably undertakes to maintain secrecy about all business and trade secrets made accessible to him by us, made available to him or otherwise made known to him in connection with or as a result of a business relationship or contact with us and not to make them accessible to third parties in any way whatsoever without our consent.
2. furthermore, the customer undertakes to use information only on a 'need to know' basis and only within the scope of the contract concluded.
3. these confidentiality obligations shall survive the duration of the business relationship.

X. Limitation period

1. the limitation period for claims for defects is 12 months, calculated from the transfer of risk.
2. insofar as liability for damages not based on injury to life, body or health of the customer is not excluded, such claims shall become statute-barred within one year, beginning with the accrual of the claim.
3. our claims for payment shall become time-barred after 5 years.

XI. Place of fulfilment - Applicable law - Place of jurisdiction

1. unless otherwise stated in the order confirmation, our registered office in Gmunden/ÖÖ shall be the place of fulfilment.
2. the law of the Republic of Austria shall apply; there shall be no reference to foreign legal systems; the UN Convention on Contracts for the International Sale of Goods shall not apply.
3. if the customer is an entrepreneur, the jurisdiction of the competent court for our registered office in Gmunden is agreed.
4. for German customers, the court in Alttötting or Traunstein - applying German law - shall have exclusive jurisdiction.

Note: This is a software translation - in case of doubt, the original German text applies.