

General Conditions of Sales and Delivery

1. Conclusion of contract

The contract shall be deemed to have been concluded when the seller indicates his acceptance of the order by forwarding an order confirmation. Conditions stipulated by the purchaser in addition to or at variance with these General Conditions of Sale and Delivery shall only be valid if expressly accepted in writing by the seller.

2. Prices

The prices quoted are to be understood as net fixed prices, ex works, for packed delivery, unless stipulated otherwise in the order confirmation. The prices quoted are binding only for the acknowledged order.

The purchaser shall pay any duties, taxes, charges, etc. which are levied outside the seller's country in connection with the delivery, or shall reimburse the seller on presentation of appropriate evidence if the seller has been obliged to make such payments.

Unless otherwise agreed and stipulated accordingly in the order confirmation, all bank and forwarding charges shall be paid by the purchaser.

3. Documents

Documentary material associated with a quotation, such as illustrations, drawings, details of weights and dimensions, are only binding if this has been confirmed expressly in writing. Cost estimates, drawings and other documentary material may neither be handed over to nor made accessible to third parties. The seller retains ownership and copyright of these documents.

4. Transfer of risk

Unless expressly stipulated otherwise in the order confirmation, the risk shall pass to the purchaser on dispatch of the delivery ex works, and insurance shall be ex work.

The agreed delivery clauses shall be governed by the valid edition of the "Incoterms" on the date on which the contract is concluded.

5. Delivery period

5.1 Delivery periods and delivery dates shall be deemed to be approximate, unless expressly stated otherwise in the order confirmation. The delivery period shall commence with the date of the order confirmation, but not before all technical details have been settled. All order confirmations shall be deemed to be without obligation, subject to ability to deliver.

5.2 Furthermore, delivery periods and delivery dates shall be binding only if the purchaser punctually fulfils his obligations, in particular complying with the agreed terms of payment and providing evidence that all official permits have been obtained.

5.3 If delivery is delayed due to any of the circumstances specified in Clause 9 or to action taken or neglected by the purchaser, the seller shall be granted an extension of the delivery period

commensurate with the circumstances. If delivery is delayed, the purchaser shall in principle have no claim to damages or termination of the contract.

6. Inspection and acceptance of products and services

6.1 The purchaser shall inspect the delivery of products and services immediately upon receipt, and notify the seller in writing within 5 days of the nature, content and scope of any complaints. If purchaser fails to give notice, the delivery and services are deemed to be accepted.

The purchaser shall immediately notify the carrier and its insurance company in the event of any shipping damage.

6.2 Part deliveries may be made.

6.3 If the purchaser does not accept the delivery on the contractually agreed date, he must nevertheless make the payments due upon the delivery date. The seller shall then arrange for storage of the items delivered, at the expense and risk of the purchaser.

6.4 If the purchaser fails to fulfil his obligation to accept delivery for any reason, he shall be requested by the seller in writing to accept the delivery within a reasonable period of time. This can be dispensed with if the purchaser has cancelled the order or if it is otherwise apparent from his conduct that there would be no purpose in setting this time limit. The seller can then renounce the contract by simple written advice (without recourse to the courts) in respect of that portion of the delivery which has not been accepted, and claim compensation from the purchaser for the loss suffered as a result of non-performance. Subject to evidence of more extensive losses, the loss shall be deemed to be at least the amount which has been paid to date, but no less than 15% of the value of the order.

7. Payment

7.1 Unless otherwise agreed in writing, payments shall be made by the purchaser no later than when the goods are ready for dispatch, without any deductions, at the head office of the seller and in the latter's local currency.

7.2 Corresponding part payments shall be due in the case of part deliveries.

7.3 If the items for delivery have been delivered before payment of all amounts payable by the purchaser under the contract, they shall remain the property of the seller until payment has been made in full.

7.4 If the purchaser is in arrears with his payments, the seller can suspend further implementation of the contract and recall parts already delivered, without limiting his rights. The interest rate for the outstanding payments shall be 3% higher than the usual bank interest rate.

7.5 Even if the purchaser counterclaims, he must fulfil his obligations towards the seller in full, and in particular is not entitled to offset any counterclaims.

8. Warranty

8.1 The seller undertakes, subject to the following provisions, to rectify any defect impairing the serviceability of the items delivered, if this is due to faulty design, materials or workmanship.

8.2 The warranty shall commence on the date on which the risk passes to the purchaser, and shall remain in force for 6 months.

8.3 Identical warranty terms, as applicable to the original items delivered, shall apply to the parts delivered in accordance with the warranty.

8.4 The seller's warranty obligations shall be deemed fulfilled with respect to the faulty part when he supplies a replacement. Any duties and charges shall be paid by the purchaser.

8.5 The warranty obligations of the seller shall not extend to defects attributable to materials supplied, or a design stipulated, by the purchaser. The warranty obligations shall expire in any case, if the purchaser does not use original parts supplied by BRÄCKER.

8.6 The warranty obligations shall apply only to defects arising under operating conditions envisaged by the contract and during proper use. They shall not apply to defects where the cause did not arise until after the transfer of risk. In particular, they shall not apply to defects due to poor maintenance, poor storage or installation by the purchaser, modifications made without the written consent of the seller, normal wear and tear.

8.7 In no event can the purchaser claim compensation for losses of any kind which have not arisen on the items delivered themselves, in particular loss of production, loss of use, loss of orders, lost profits, and other direct and indirect losses. This exclusion of liability shall not apply to illegal intent or gross negligence on the part of the seller, but it shall also apply to illegal intent or gross negligence on the part of assistants and in those cases where liability exists under product liability law for personal injury or material damage to privately used objects in the event of faults in the items delivered.

8.8 It is the purchaser's responsibility to make sure that all safety regulations are adhered to (protective glasses, etc.)

9. Exceptional circumstances

9.1 The following circumstances in particular are deemed to be exceptional cases, if they arise after the contract has been concluded or prevent its performance:

Industrial disputes and all circumstances outside the parties control, such as fire, confiscation, embargo, rebellion, official restrictions, general shortage of supplies, lack of fabricating parts, restrictions on energy consumption, etc.

9.2 A party invoking one of the above circumstances shall immediately notify the other party when it occurs and when it ceases.

9.3 The consequences of these circumstances with respect to the time limits for fulfilling the obligations of both parties are stipulated in Clause 5. If any of these circumstances makes it impossible for one party to implement the contract, either party shall have the right to renounce the contract by simple written advice (without having recourse to the

courts), provided the counterparty has previously been notified thereof.

The parties shall come to an amicable agreement on sharing the costs already incurred in respect of the implementation of the contract. Within the meaning of these provisions, costs are understood to mean reasonable actual expenses incurred. Each party shall ensure that its loss remains within narrow limits. If a delivery has already been made to the purchaser, the portion of the contract price corresponding to this delivery shall be deemed to be the seller's expenses hereunder.

10. Termination of the contract

Termination of the contract on whatever grounds shall not result in the loss of rights of the parties which have arisen during the life of the contract until the termination thereof.

11. Arbitration, applicable law

11.1 All disputes arising out of or in connection with the delivery contract shall be settled finally according to the ICC Rules of Conciliation and Arbitration by one or more arbitrators appointed under these Rules. The seller is entitled to stipulate the arbitration venue and the language of the proceedings. The arbitrators shall not directly or indirectly be employed by or be under contract of any kind to either party or otherwise active on their behalf.

11.2 The seller is entitled, instead of calling for an arbitration tribunal, to bring an action before the ordinary courts having jurisdiction at his head office or at the head office of the purchaser, unless the issue has been referred to arbitration by one of the parties.

11.3 The Vienna Convention on Contracts for the International Sale of Goods shall not be applicable, unless otherwise agreed. The contract shall be subject to substantive law in the country where the seller's head office is located.