

## General Terms of Sales and Delivery of MATEC GmbH

### 1. Validity of terms

1.1. Contracts between MATEC GmbH („MATEC“ hereinafter) and entrepreneurs, legal persons of the public body/corporation or statutory special assets on delivery of goods and services can only come into effect exclusively on the basis of the following terms. These terms of sales and delivery also apply to all future business with the client.

1.2. Counter-confirmations from the client indicating any terms deviating from these are dismissed herewith; such conflicting terms or terms from the client that deviate from the mentioned terms will not be recognized by MATEC, unless MATEC has expressly confirmed their validity in writing. The terms of MATEC will also apply, if MATEC, knowing the conflicting or deviating terms of the client, executes the delivery unconditionally.

### 2. Offer and order

2.1. The offers from MATEC are provisional and not binding, unless something else arises from the order confirmation. The additional documents attached to the contract such as illustrations, diagrams, measures and weight details as well as the contents of brochures are not binding unless they have been specially marked as binding.

The contract only comes into effect when MATEC confirms the order by the client in writing or confirms by telex/fax or a written order is made available.

2.2. Additional services such as delivery, installation, commissioning etc. are to be agreed upon separately.

### 3. Prices and payment

3.1. The prices given in the order confirmation by MATEC are the determined prices, which do not include packaging, freight, insurance, customs, taxes and other official details, if nothing else arises from the order confirmation. The import / sales tax and VAT is not included in the prices and will be specially demarcated on the day the invoice is issued.

The costs for return transport of packaging will be borne by the client.

3.2. MATEC reserves the right to change prices corresponding to the decrease or increase in costs after the contract has been concluded, especially as a result of wage settlements or changes in the price of materials. If required these can be proved to the client.

3.3. Invoices are due immediately after they are received. If the client delays payments that are due or MATEC discovers circumstances that question the solvency and credit worthiness of the client, then MATEC has the right to choose, to either demand an advance payment or a security deposit. If these demands are not adhered to, MATEC further has the right, after a suitable grace period, to reject the fulfillment of the contract and demand damages instead of the advance payment/security deposit.

3.4. The client can claim those charges against MATEC that are legally established, undisputed or recognized.

3.5. Any cash deduction requires special permission in writing.

### 4. Delivery, Lead times

4.1. The delivery will take place ex factory (FCA Köngen as per Incoterms 2010). The costs and risks of transportation, as well as loading costs will be borne by the client. The delivery will take place against billing of client without any responsibility for the cheapest freight; in so doing, the weights and measures determined by MATEC have to be adhered to. In case no instructions are given by the client, MATEC determines the means and route of transport. A freight or accident/breakage insurance is secured only on the express desire of the client at the client's cost and as per their specifications.

4.2. The risk is transferred to the client as soon as the consignment has been handed over to the person executing the transport or the consignment leaves the MATEC factory for purpose of dispatch, also when part deliveries are executed and / or if MATEC has taken over further services such as delivery and/or installation of the delivered object. In case the delivery is not possible without MATEC being at fault, the risk along with an intimation of readiness for delivery is handed over to the client.

4.3. If, on the part of the client, there is any delay in taking over the object or if the client culpably infringes any obligations, the risk of a possible destruction or deterioration of the goods is transferred to the client at that point of time, when the delay sets in.

In this case MATEC has the right to claim any damages incurred in this respect, including possible increased expenses. The right to further claims is reserved.

4.4. Fixed delivery deadlines require explicit written confirmation by MATEC as fixed deadlines. Delivery time begins with the signing of the contract, however not before a due advance payment or fulfillment of other obligations by the client, which have to be executed in connection with the contract. The delivery deadline is said to be adhered to when the goods have left the factory by the end of the delivery period or intimation has been sent to the client that goods are ready for dispatch.

4.5. The prerequisite for adherence to the delivery deadlines is that all technical questions between the parties to the contract have been clarified and that the

client has fulfilled all its obligations e.g. obtaining the required permissions or attestations from the concerned authorities, technical illustrations, work pieces, providing components, material, programs and installation plans punctually and properly.

4.6. The delivery deadline may be extended depending on the measures, in the context of an industrial action or dispute as well as the occurrence of unforeseen obstacles, which lie beyond the sphere of MATEC, insofar as such obstacles exercise considerable influence on the completion and dispatch of the delivery object and this can be verified. This also applies when these circumstances arise at the sub-suppliers' end. MATEC is also not responsible if the circumstances described occur during an already existing delay. The onset and end of such obstacles in important cases will be intimated by MATEC as soon as possible to the client. In case the extension should exceed the delivery deadline by 9 months, then the client has the right to withdraw from the contract.

4.7. If there is a delay in delivery due to the client's wishes or circumstances represented by the client, then the risk is transferred to the client from intimation of readiness for dispatch onwards. The due date of MATEC's payment claim however, remains unaffected in these cases. In fact, the delivery is to be considered as having been effected on the date agreed upon. Warehousing costs and risks will then be borne by the client.

4.8. MATEC will be liable for delay losses as per the statutory regulations, if the delivery delays are due to intentional breach of contract or gross negligence by MATEC or due to culpable breach of an important obligation in the contract by MATEC; if the delivery delays are not due to intentional breach of contract or due to a culpable breach of an important obligation in the contract by MATEC, the compensation is restricted to typically occurring foreseeable damages.

4.9. Apart from this, in case of a delay in delivery, MATEC will be liable for every complete month of delay - within the framework of a lump sum delay compensation - to the extent of 0.5% of the dispatch value, however maximum up to 5% of the dispatch value. The applicable dispatch value is the net value of that part of the goods, which as a result of the delay cannot be used as intended. Any additional costs arising (e.g. costs for freight, packaging or installation) are not part of the dispatch value.

### 5. Preparation for installation of the object to be delivered

5.1. After signing the contract MATEC will inform the client, which conditions with respect to structural type (e.g. foundations) and / or technical type (e.g. connections to electricity, water, air, availability of technical equipment etc. ) and / or organizational type ( e.g. adherence to safety requirements, provision of required rooms for installation personnel of MATEC ) at the installation site, have to be ready at what point of time so that installation can be executed by MATEC as per the contract.

5.2. It is the obligation of the client to provide for the requirements of MATEC as stated in 5.1 at the installation site punctually and in accordance with the regulations so that MATEC can fulfill its contractual obligation of installation in accordance with the regulations. If the client does not fulfill these obligations, then the deadlines agreed upon in the contract for installation of the delivery object by MATEC will be postponed correspondingly.

### 6. Reservation of Proprietary Rights

6.1. Till all requirements have been fulfilled (including all outstanding amounts from the current account), which are due to MATEC on the part of the client at that point of time or in the future, the delivered object remains the property of MATEC (reservation goods).

6.2. In case of any behavior by the client contrary to the contract, especially if the client delays payment or it is recognized that payment claims by MATEC are at risk due to non capability of the client to pay, MATEC has the right to reclaim the goods on the grounds of reservation of ownership. A withdrawal from the contract is not a prerequisite for this reclaim. Furthermore, this demand/reclaim does not mean a withdrawal from contract.

After taking the goods back, MATEC is authorized to utilize the goods, the proceeds from the utilization of which will be adjusted against the liabilities of the client – after deduction of appropriate utilization costs.

6.3. It is obligatory for the client to handle the goods purchased with care. It is especially obligatory to insure these adequately at their replacement value against fire, water and theft at the client's own cost. As far as maintenance and inspection work is concerned, the client has to have it executed at their cost.

6.4. The client has the right to sell the reservation goods through proper business transactions as long as they are not delayed. Claims/demands arising from the resale or other legal rights (insurance, not permitted business) pertaining to the reservation goods (including all outstanding claims from current account) are already transferred by the client to MATEC as a safeguard, at the value of the reservation goods (net billing amount including VAT) with all ancillary rights and priority over others, independent of the fact as to whether the goods have been resold with or without processing. MATEC accepts this transfer.

For reasons of safeguard for MATEC, the client also transfers the claims existing against them at the value of the reservation goods (net billing amount including VAT) with all ancillary rights and priority over others, which arise from the link between the delivered goods and land against a third party. The same applies when the reservation goods are installed on the land of the client and this land or rights to the land are sold.

MATEC authorizes the client revocably to absorb the claims transferred to MATEC in their own name. MATEC is authorized to intimate the third party debtors of the transfer of claims, in the name of the client, if the client does not stand by their payment liabilities from the collected proceeds of the transferred claims, resulting in payment being delayed, or if an application for opening insolvency proceedings has been made or a stop payment is issued. With the announcement of the transfer to the third party debtor, the client's authority for collection ceases to exist. In this case, MATEC can ask the client to reveal the transferred claims and their debtors give all necessary details for collection and hand over all the corresponding documents.

**6.5.** In case of access to reservation goods by third parties, especially attachments, the client will make an indication to MATEC's property and will inform MATEC in writing without any delay, so that MATEC can promptly claim their right to ownership. If the third parties are not in a position to compensate MATEC for the costs arising from a legal proceeding, the client shall bear all costs arising from cancellation of access and re-obtaining the delivery object.

**6.6.** Any processing or reconstitution of the delivered goods by the client will always be done for MATEC. If the goods delivered are processed using other objects that do not belong to MATEC, MATEC acquires the co-ownership of the new object in the proportion of the value of the delivered goods (net billing amount including VAT) to the other processed objects at the time of processing. For the object resulting from the processing, the same incidentally applies as for the reservation goods delivered.

**6.7.** If the product delivered is mixed with other objects that do not belong to MATEC, in a way that they cannot be separated, MATEC acquires the co-ownership of the new object in the proportion of the value of the purchase object (net billing amount including VAT) to the other goods mixed at the time of mixing. If the mixing is executed in a way that the client's object is to be looked at as the main object, then it is understood as agreed that the client will pass on to MATEC a share in ownership proportionally. The client safeguards the resulting sole ownership or non-ownership for MATEC.

**6.8.** It is MATEC's obligation, to release the securities at the request of the client to the extent that the realizable value of the securities that safeguard the claims exceed them by more than 10%, whereby the choice of the securities to be released lies with MATEC.

## 7. Warranty

**7.1.** The defect liability rights of the client require that he has duly performed the obligatory investigation and duty to give notice of defects in accordance with the regulations mentioned under § 377 HGB.

**7.2.** Technical properties and descriptions alone do not depict any assurance of particular properties; the possibility of standard or technical deviations is reserved. An assurance of properties in the legal sense is only present if the respective details were expressly confirmed in writing by MATEC. Measures, weights, services and procurement descriptions as well as technical details of all types, in case of doubt, are not an assurance but only product descriptions. The right to changes in the construction and/or execution which do not impair the operational reliability or the value of the delivery object is reserved and a complaint cannot be made unless MATEC has given a warranty for the same.

**7.3.** Natural wear and tear (wear and tear components as per wear and tear components list) do not justify any warranty claims. The warranty lapses, if the client himself tries to remove a defect without first giving MATEC the opportunity to repair. Further, the warranty does not apply in the following cases: improper handling, usage and operation of the delivered goods as well as faulty installation or commissioning by client or third party, improper maintenance by the client, unsuitable foundation, chemical, electro-chemical or electrical influences to the extent that these are not a responsibility to be shouldered by MATEC.

Excessive strain will also result in the loss of warranty.

**7.4.** In the case of defects in the delivered goods, the client only has the right to have them made good, while the decision is left to MATEC as to whether the defect will be repaired or a defect-free good will be delivered. However, the client explicitly has the right to either reduce the price that is agreed upon or to withdraw from the contract if MATEC fails to repair the defect.

**7.5.** If the client alleges a defect in the delivered goods to MATEC and after the investigation MATEC discovers that there is no defect that can be rectified by MATEC, then all resulting costs have to be compensated by the client that have arisen due to the investigation.

**7.6.** If the delivered goods are not in the place of delivery as per the contract, then the client will bear all additional costs arising for MATEC in connection with the removal of the defects.

**7.7.** The warranty period comprises of 12 months and starts when the risk has been shifted i.e. when the object of delivery leaves MATEC's factory or is ready to be picked up there. This period is subject to limitation and is not valid in the event of malicious concealment of a defect, in the event of culpable violation of an important contractual obligation, for claims for deliberate or grossly negligent breaches of contract, or for culpable harm to life, body and health as also for claims under the law of product liability.

**7.8.** The client is not authorized to transfer their warranty claims to third parties.

**7.9.** In the case of purchase of second-hand machines MATEC does not take over any warranty. This does not apply if the defect was deceitfully hidden.

## 8. Patents and Trademark Rights

MATEC does not take any responsibility in the event of the client infringing patents or other trademark rights of third parties by making available devices/equipment for the installation and the delivery object or making available other components and their utilization. On the first written claim by a third party, the client will release MATEC from all claims resulting from a trademark right infringement of the third party and will compensate all costs to MATEC that arise in this connection as necessary.

## 9. Limitation on Liability

**9.1.** MATEC is liable for damages as per the legal regulations to the extent that these are intentional, due to sheer negligence or culpable breach of an important contractual obligation. If the damages are not due to an intentional breach of contract by MATEC, then the claim for damages is restricted to the typically occurring foreseeable damages. The same applies when claims for damages are due to the client instead of services (by MATEC).

**9.2.** The compensation for consequential damages, in particular for standstill times and downtimes is excluded.

**9.3.** In case it has not been regulated in advance, claims to damages from MATEC are excluded; this does not apply if there is generally a (third party) liability insurance for culpably caused damages by MATEC.

**9.4.** All claims pertaining to damage to health, body or life remain untouched. Claims based on a regulation in the Product Liability Act also remain untouched.

**9.5.** Any further liability for damages – without considering the legal nature of the claim being made valid – is excluded. This applies especially for damage claims due to faults/negligence in case of termination of the contract, due to breach of other obligations or due to tortious claims for replacement of damages as per § 823 BGB.

**9.6.** To the extent that the claim for damages against MATEC is excluded or limited, this is also applicable for personal damage claims of MATEC's employees, representatives and agent of vicarious liability.

## 10. Non-disclosure

**10.1.** It is obligatory for the client to treat the contract with MATEC as confidential. Any indication of a business relation with MATEC in the client's advertisements can only be made with the written approval by MATEC.

**10.2.** It is obligatory for the client to treat all non-evident findings and facts as confidential, which come to their knowledge through their business dealing with MATEC.

**10.3.** MATEC keeps all property and intangible property rights to the diagrams, illustrations, calculations and other documents. Passing them on to third parties without the written consent by MATEC is prohibited. This applies especially for written documents marked as confidential.

## 11. Applicable rights, jurisdiction and partial invalidity

**11.1.** These terms of business and the entire legal relationship between the client and MATEC is subject to the jurisdiction of the Federal Republic of Germany.

**11.2.** The place of delivery for all obligations from the contractual relationship is 73257 Köngen.

**11.3.** Köngen is the place of jurisdiction for all disputes arising out of the contractual relationship, its origin as well as its effectiveness, insofar as the client is a businessman or a legal person of the public body/corporation or statutory special assets; however, MATEC also has the right to sue the client at their headquarters.

**11.4.** Claims by the client against MATEC may be transferred to a third party only with MATEC's permission.

**11.5.** The assertion of a right to retention or the offsetting against possible counter claims by the client is only permissible with legally determined or undisputed counter claims.

**11.6.** All agreements between MATEC and the client for the purpose of execution of this contract have been laid down in this contract in writing. Subsidiary agreements require to be in writing. This also applies to the waiver of the written form requirement.

**11.7.** In the event that any of the provisions in these terms of business or in the context of other agreements should become invalid, the effectiveness of all other provisions or agreements would remain untouched. An effective provision should replace the same, which is most similar to the one desired by the parties.

Köngen, May 2015