

Standard Terms and Conditions
MeTool Messtechnik GmbH, Alfred-Nobel-Allee 40, D-66793 Saarwellingen
Standard terms and conditions of sale and supply

1. Validity

All business relationships maintained with ourselves shall be subject exclusively to the following terms and conditions. Terms and conditions which deviate there from shall require our express written approval if they are to have any validity. The assignment of rights or claims arising from the business relationship maintained with us shall only be permissible with our prior written approval.

2. Scope of supply

Our quotations shall be non-binding. Orders shall be binding on us only if they have been confirmed in writing or accepted by forwarding of the goods. Verbal collateral agreements shall require to be confirmed in writing if they are to have any validity. Written order confirmation by the supplier shall be exclusively binding as regards the scope of supply. If goods are manufactured on the basis of design specifications, drawings or models from the customer, the supplier shall not be under any obligation to verify the function or plausibility of the design. The quality shall be limited to that which is attainable through manufacture according to the specifications applying the usual tolerances. As a matter of basic principle, the supplier shall be under no obligation to install parts delivered.

3. Delivery period

The period within which delivery is to be made shall begin on despatch of the order confirmation. However, it shall not begin before the documents and records to be procured by the customer have been provided or before receipt of down payment if any such has been agreed. If no other agreement has been made, the basic delivery period shall be 4 weeks. Part performance shall be expressly permitted. The period within which delivery is to be made shall be deemed to have been complied with if the goods have left the works or notice of readiness to despatch has been given before its expiry. In cases of culpable failure to comply with an agreed delivery period in which it is overrun by more than 2 weeks, the supplier shall not be deemed to be in default of delivery until a reasonable extension period has been set, 'reasonable' being taken to mean a minimum of 4 weeks. The customer shall not have the right to rescind the contract until expiry of said extension period. A declaration of rescission must be made to the supplier without delay, i.e. within 2 weeks at the latest following expiry of the extension period. After that, the customer shall no longer have the right of rescission. The occurrence of unforeseen events beyond the control of the supplier shall extend the delivery period by a reasonable period, if such impediments can be shown to have a considerable influence on the production or delivery of goods to be supplied. This shall also apply if such circumstances arise so as to affect the work of sub-contractors. Neither shall the supplier be held responsible for the above circumstances if they arise during a state of default which has already begun. In important cases, the supplier shall inform the customer as soon as possible as to the beginning and probable end of such impediment.

4. Passage of risk

The risk shall pass over to the customer on despatch of the parts being delivered at the latest. It shall also do so if partial deliveries are made or if the supplier has also agreed to bear other costs, e.g. of transportation or carriage and installation. If the customer so requests, the consignment shall be insured at his expense by the supplier against loss or damage by theft, breakage, transport, fire and water and other insurable risks. If shipping is delayed as a result of circumstances for which the customer is responsible, the risk shall pass over to the customer as from the day on which the goods reach a state of readiness for despatch. However, the supplier shall, at the request and expense of the customer, be under obligation to take out such insurance as the latter requests. Even if they have minor defects, items delivered are to be accepted by the customer notwithstanding the rights referred to in Para. 7.

5. Terms of payment

In the absence of any separate agreement, prices shall apply ex works inclusive of loading at the works but exclusive of packaging. Prices shall be subject to value added tax at the statutory rate applicable at the time. In the absence of any special agreement, payment is to be made as advanced payment, in full and free of transaction charges, to the supplier's designated account. Partial performance may be invoiced separately. If payment is not made within the period prescribed by the supplier, interest shall be charged at a rate 5 percentage points above the basic rate of interest of the German Federal Bank (*Bundesbank*) applying at the time. The supplier reserves the right to claim for further loss or damage. For as long as the customer is in default as regards such payment, the obligation to deliver shall be in abeyance. This may also extend to cover other deliveries. In cases of default of payment and reasonable doubt regarding the customer's ability to pay, all amounts from all current transactions shall fall due for payment immediately. The supplier shall be entitled to claim right of retention with regard to further deliveries. The customer shall not be permitted to retain or offset payments on the basis of counter-claims which are disputed by the supplier.

6. Retention of title

The supplier reserves the right to remain the owner of the items delivered until such time as all payments from the supply contract have been received. The supplier shall have the right to insure the items to be delivered at the expense of the customer against loss or damage by theft, breakage, transport, fire and water and other risks, if the customer cannot provide evidence of having taken out such insurance himself. The customer may neither pledge the items delivered nor transfer ownership or title of them for purposes of security. He shall inform the supplier without delay in the case of seizure, confiscation or other disposition by a third party or parties. If the customer behaves in a way which is not in conformity with the terms of the contract, and especially if he is in default of payment, the supplier shall, having issued a reminder, have the right to repossess the goods delivered, the customer in turn being under obligation to surrender them. Neither a claim for retention of title nor the pledging of the goods delivered by the supplier shall count as rescission of the contract.

7. Warranty

Notwithstanding Para. 3, the supplier shall be liable for defects in goods supplied as follows, there being no further entitlement to claim:

- a) Any parts which, within a period of 12 months after commissioning and as a result of a circumstance which arose prior to the passage of risk, turn out to be unserviceable or seriously impaired in terms of their quality, are either to be made good or supplied anew free of charge, as the supplier may choose at his own reasonable discretion, – in particular if said unserviceability or impairment is attributable to faulty design, poor-quality construction materials or inferior finishing. The supplier is to be informed in writing and without delay if any such defects are found. Replaced parts shall become the property of the supplier. If shipping, installation or commissioning is delayed through no fault of the supplier, liability shall expire 12 months at the latest after the passage of risk. As regards essential products made by third parties, the liability of the supplier shall be limited to the assignment of the liability claims to which he is entitled against the supplier of such third-party products.
- b) The right of the customer to file claims for defects shall in all cases fall under the statute of limitation 12 months from the point in time at which the supplier was notified of said defects, said notification having duly been given within the period prescribed, though such limitation cannot begin before expiry of the warranty period.
- c) No responsibility shall be accepted for loss or damage which occurs for any of the following reasons: unsuitable or improper use, incorrect assembly or commissioning by the customer or third parties, natural wear and tear, incorrect or careless handling, unsuitable operating material, substitute materials, defective fittings or chemical, electrochemical or electrical influences, provided that they are not attributable to a fault of the supplier.
- d) Having come to an understanding with the supplier, the customer shall allow the time and opportunity required for all repairs and replacement deliveries which appear necessary to the former at his reasonable discretion. Otherwise the supplier shall be released from his warranty for defects. Only in urgent cases in which operational safety is threatened or it is a matter of averting disproportionately severe loss or damage – in which the supplier is to be informed immediately – , or if the supplier is in default with regard to remedying the defect, shall the customer have the right to remedy the defect himself or have it remedied by a third party or parties and demand from the supplier reimbursement of the necessary costs.
- e) Of the direct costs incurred by repair or replacement delivery, the supplier shall – provided that the complaint turns out to have been justified – bear the costs of the replacement part inclusive of shipping and reasonable costs of installation and deinstallation; also, if such can reasonably be requested depending on the circumstances of the individual case, any costs incurred by the provision of service technicians and their assistants if such be necessary. The customer shall bear the remaining costs.
- f) The warranty period for the replacement part and the repair shall be three months, though it shall run at least until expiry of the original warranty period covering the goods delivered. The warranty period for defects in the goods delivered shall be extended by the duration of the interruption of operations caused by work carried out to remedy defects.
- g) If alterations or repair work are carried out by the customer or third parties improperly and without prior approval from the supplier, the latter shall not be liable for the consequences thereof.
- h) The customer shall have no further rights to claim, in particular no right to claim compensation for loss or damage not actually incurred on the goods delivered themselves. This exclusion of liability shall not apply in cases of intent, gross negligence on the part of the owner or his managerial staff, or culpable breach of material contractual obligations. In cases of culpable breach of material contractual obligations the supplier shall be liable – except in cases of intent or gross negligence on the part of the owner and his managerial staff – only for contractually typical, reasonably foreseeable loss or damage.

8. Liability for accessory obligations

If through a fault of the supplier the goods delivered cannot be used by the customer in a way which conforms to the contract as a result of the former's failure to adopt or properly carry out suggestions or advice, whether these were offered before or after conclusion of the contract, or other contractual accessory obligations – in particular instructions for the operation and maintenance of the goods delivered – , the provisions in Para. 7 shall apply accordingly, there being no further entitlement of the customer to claim.

9. Legal domicile and place of performance

Place of performance for delivery shall in each case be the place at which the goods are despatched. Place of performance for payment shall be Saarwellingen. For all disputes arising from the contractual relationship, Saarbrücken shall be deemed to have been agreed as legal domicile.