

General Terms and Conditions of Sale

1 General

Quotations are based on the terms and conditions of delivery below. All quotations and agreements are based on said terms and conditions and shall be considered as accepted for the duration of the entire business relationship on order placement or on acceptance of the delivery. Conflicting conditions that are not expressly accepted in writing shall remain nonbinding for the Seller, even if they are not expressly contradicted.

2 Quotation and quotation documents

- (1) For all our offers applies that the products distributed by a sales person, are strictly not suitable for the application in gas engines, unless explicitly specified otherwise.
- (2) The Seller's quotation shall be without engagement, unless otherwise specified in the order confirmation.
- (3) Documents belonging to the quotations, such as illustrations, drawings, weights, dimensions or other technical information, as well as referenced DIN, VDE or other company and industry wide standards merely refer to the subject of the contract and do not constitute a quality guarantee.
- (4) The Seller's order confirmation in writing shall be the definitive criterion determining the content and scope of the contract. Additional agreements, modifications or supplements, etc. shall require the Seller's confirmation in writing.

3 Prices, terms of payment

- (1) Unless otherwise specified in the order confirmation, prices shall apply ex works with the exception of transportation packaging which shall be invoiced separately plus any statutory value-added tax.
- (2) The Seller shall reserve the right to modify his prices according to cost increases or decreases caused by wage agreements or changes in material prices that may come into force after conclusion of the agreement. The Seller shall provide proof of this to the Purchaser on request.
- (3) The purchase price and the prices for additional services shall be due for payment within 30 days after delivery of the goods to the Seller's factory/store and receipt of the invoice by the Seller.
- (4) Repair work not resulting from a warranty obligation on the part of the Seller shall be invoiced separately. The Seller's price lists shall apply.
- (5) The Purchaser may only offset the Seller's claims if the Purchaser's counterclaim is undisputed or if a legal title is forthcoming; he may assert a right of retention only if this is based on claims arising from the sales contract.

4 Delivery time

- (1) Delivery dates and delivery periods which may be agreed upon with or without engagement shall be specified in writing. Delivery periods shall commence on conclusion of contract.
- (2) Observance of the Seller's delivery periods shall assume the timely and proper fulfilment of obligations by the Purchaser. We reserve the right to plea non-fulfilment of contract.
- (3) If the Seller is prevented from delivering the purchase item at the date agreed upon or within the agreed term (default of delivery) due to a circumstance for which he or his vicarious agent is responsible, then the Seller shall be liable in accordance with statutory provisions. Should the Seller or his vicarious agent not be responsible for the delivery delay, the former shall only be liable for foreseeable damages which typically occur. Should the delivery delay be caused by a violation of nonmaterial contractual obligation, the Seller shall have the right to demand lumpsum damages amounting to maximum 15% of the delivery value.

5 Passage of risk

- (1) Unless otherwise stipulated in the order confirmation, delivery shall be agreed "ex works/ex warehouse".
- (2) The risk of accidental loss or accidental depreciation of the item shall pass to the Purchaser on handover.
- (3) If the Purchaser is not the consumer, the risk shall pass to the Purchaser on dispatch of the item, when the item is handed over to the person performing transportation or when the goods have left the Seller's warehouse for the purpose of shipment.

6 Liability for defects

- (1) The limitation period for material defects for new manufactured items shall be 1 year provided the Purchaser is the consumer. Otherwise the statutory limitation period shall be 18 months from date of purchase.
- (2) The Purchaser's claims for defect rectification shall be primarily limited to a claim for subsequent performance, i.e. a claim for rectification or replacement.
- (3) Any attempt by the Purchaser to rework or modify the delivered goods without prior consent by the Seller invalidates the warranty. Even with prior agreement the warranty will also be deemed null and void except if the Seller can prove that the defect occurred irrespective of rework or modification.
- (4) The Seller shall only be liable for damages in cases of intent or gross negligence in accordance with statutory provisions. Liability for damages shall be limited to foreseeable, typically occurring material damage provided that the Seller cannot be accused of wilful breach of contract. Otherwise liability for damages shall be excluded unless it is a matter of injury to life, limb and/or health. Liability for pure financial loss, in particular loss of profits, shall be excluded.
- (5) Should a defect be caused by an incorrect assembly instruction, the Seller shall only be obliged to assume liability for material defects if the assembly or the installation of the sold item was performed competently in all other respects. The Purchaser shall bear the burden of demonstrating and proving competent execution.
- (6) The Purchaser shall undertake to inspect the delivered goods immediately and reprimand any defects without delay.

7 Reservation of title

- (1) The purchase item shall remain the Seller's property until final fulfilment of all accounts receivable to which the Seller is entitled on account of the sales contract.
- (2) Should the purchase item be inseparably mixed with other items not belonging to the Seller, the Seller shall acquire joint ownership of the new item in proportion to the value of the purchased items (sum total of invoice plus VAT) in the other mixed items at the time of mixing. Should mixing take place in such a way that the Seller's item may be regarded as the main item, it shall be deemed agreed that the Purchaser shall assign joint ownership on a pro rata basis. The Purchaser shall retain sole property rights or joint ownership on behalf of the Seller.

8 Return of goods

The return of delivered goods against credit of the purchase price shall solely be accepted in cases, in which the return and terms have been agreed on in writing beforehand. Possible warranty claims remain unaffected.

9 Venue, place of performance

- (1) Provided that the Purchaser is a trader within the meaning of the South African commercial code a legal entity under public law or a special asset under public law, the place of jurisdiction shall be the Seller's registered office. However, the Seller shall also retain the right to sue the Purchaser at the court in the latter's place of residence or registered office.
- (2) Unless otherwise stipulated in the order confirmation, the place of performance shall be the Seller's registered office.

10 Applicable law

The contractual relationship shall be subject to South African substantial and process law.

11 Severability clause

Should one of the above provisions be or become legally ineffective, this shall not affect the validity of the other provisions. It shall be deemed agreed that the invalid provision shall be replaced by such a provision that the best approximates the commercial intention of the invalid provision.