

General Terms and Conditions of Sale of
Jünger+Gräter GmbH
(08/2014)

I. General terms and conditions

1. Area of application

- 1.1. These terms and conditions of sale apply exclusively; contradictory or deviating conditions of the Principal shall not apply, unless agreed in writing. These terms and conditions of sale shall also apply if the Agent executes delivery to the Principal without reservation in the knowledge of the Principal's contradictory conditions or conditions deviating from these terms and conditions of sale.
- 1.2. All agreements made between the contractual parties for the purpose of execution of an order must be agreed in writing.
- 1.3. Contractual components for the execution of the order are:
 - the quotation of the Agent,
 - the particular conditions of the order, especially the order confirmation and
 - these General Terms and Conditions of Sale, Part I-III

Where there are contradictions in the contract, the contractual components shall apply in the aforementioned sequence.

2. Quotation

- 2.1. Quotations are non-binding, unless stated otherwise in the order confirmation.
- 2.2. The Agent reserves the right to all rights of ownership and copyright to figures, sketches, estimates and other documentation. This applies in particular to written documentation marked as 'confidential'. The Principal requires the written consent of the Agent before forwarding it to third parties.

3. Prices

- 3.1. Unless otherwise stated in the quotation or order confirmation, the prices apply 'ex works' (Incoterms 2010: EXW), excluding packaging; this is invoiced separately.
- 3.2. The statutory value-added tax (VAT) is not included in the prices; it is accounted for separately at the statutory amount on the day of invoicing.

4. Payment conditions

- 4.1. Deduction of an early payment discount requires special written agreement.
- 4.2. Unless otherwise stated in the order confirmation, the labour costs or purchase price net (without deduction) is due for payment within 30 days of the invoice date. The statutory regulations regarding the consequences of payment arrears apply.
- 4.3. The Principal is only entitled to set-off rights if his counterclaims are legally established, undisputed or acknowledged by the Agent. Furthermore, the Agent is only authorised to exercise a right of retention if his counterclaim is based on the same contractual relationship.

5. Retention of ownership

The Agent shall supply solely on the basis of the retention of ownership described below. This applies to all future deliveries, even if the Agent does not explicitly invoke these.

- 5.1. Insofar as ownership has not yet been transferred, the Agent must be notified in writing without delay if the items delivered are seized or exposed to other third party interventions. Where the third party is not able to reimburse the judicial and extra-judicial costs of a claim in accordance with Section 771 of the Code of Civil Procedure (ZPO), the Principal is liable for the deficit arising.
- 5.2. Installed construction materials remain the property of the Agent until complete payment. The Principal is entitled to resell the retained goods in normal business transactions. The demands of the Principal from the resale of the goods supplied under reservation of proprietary rights are already assigned by the Principal to the Agent for the final amount agreed with the Agent, including value-added tax. This assignment applies regardless of whether the objects supplied have been resold with or without processing. Uninstalled construction materials supplied within the scope of installation work (residual volumes, safety and replacement material) remain the property of the Agent.
- 5.3. The processing of the objects supplied under reservation of proprietary rights by the Principal always takes place in the name of and on behalf of the Agent. In this case, the expectant right of the Principal to the supplied objects is transferred to the newly produced items. If the purchased item is processed with other objects which are not the property of the Agent, he acquires co-ownership of the newly produced item in the ratio of the objective value of the objects supplied under reservation of proprietary rights to the other processed objects at the time of processing. The same applies in the case of intermixture. Where intermixture occurs in such a way that the item of the Principal is regarded as the main item, it is considered agreed that the Principal transfers co-ownership to the Agent proportionately and preserves the resulting co-ownership for the Agent. In order to ensure the demands against the Principal he also transfers such demands to the Agent which are due to him as a result of the combination of the item which is subject to reservation of proprietary rights with property against a third party. The Agent already accepts this transfer.
- 5.4. The Agent undertakes to release the securities due to him at the request of the Principal where their value exceeds the demands to be secured by more than 20%.

6. Other agreements

- 6.1. The courts responsible for Schwetzingen are considered the place of jurisdiction. The exclusive applicability of German law also applies. The applicability of the UN purchasing law is precluded.
- 6.2. Should individual clauses of these General Terms and Conditions prove ineffective, this does not preclude the effectiveness of the remaining terms and conditions.

II. Conditions for refractory and chimney installations

1. General

- 1.1. Refractory construction works are a special type of construction. These particularities comprise the following inter alia:
The refractory construction works constitute partial works, the complete execution of which is a pre-requisite for the functionality of the entire plant.

- The spectrum of operating conditions is extraordinarily extensive and changes relatively quickly with technological transformation.
- The possible designs are only encompassed by DIN standards to a small extent.
- The value of these construction works usually only accounts for a very low proportion of the value of the entire plant.
- Even slight defects can cause the failure of the entire plant.
- The lining of a plant is a wearing part. The lifespan can be shorter than the warranty period.
- As a general rule, no work can be executed on the structure during the operation of the plant.

Taking into account the special realities in refractory and chimney construction the following contractual conditions apply for contracts regarding refractory and chimney construction works:

2. Bases of the quotation

2.1. The order works and the order price are based on the Principal's information, in particular on the following points:

- Analogously the numbers 0.1 and 0.2 of DIN 18 299 VOB/C.
- The type and character of the subsurface (subsurface, subconstruction, base layer, supporting structure).
- Special difficulties during execution, e.g. work in rooms where the Principal's operations are continuing, work at uncustomary temperatures or air ratios (dust, gases).
- The operating conditions of the construction, e.g. temperatures, chemical and mechanical stresses, furnace atmospheres, exhaust gas volumes.

2.2. The Agent assumes normal conditions, unless the Principal has provided special information on the aforementioned points. The normal conditions include:

- roads and squares are suitable for the practicability of roadgoing vehicles.
- electricity and water connections are located close to the point of usage (maximum 50 m).
- If no special information is provided on the composition and contamination of the plant waste, the quotation assumes that the materials can be disposed of at a class II disposal site (for the purpose of TI municipal waste) (or for the purpose of these conditions equivalent for changes to the provisions). This includes such waste occurring as a result of subcontracted demolition work.

3. Supplies and services of the Agent

The quotation price only includes the supplies and services cited in the quotation.

4. Supplies and services of the Principal

The Principal provides the following services free of charge:

- 4.1. Sufficient space for erection of the construction site and material storage.
- 4.2. Joint use of available transport routes.
- 4.3. Unloading and storage of all construction and accessory construction materials, equipment and tools necessary for execution supplied by the Agent on the construction site and transportation to the site of use. Supplying of electricity for equipment, energy for lighting and heating of the construction site buildings, as well as drinking water (including disposal). Compressed air is also provided.
- 4.4. Sanitary facilities for construction site staff.
- 4.5. Sanitary and rescue equipment.
- 4.6. Mounting of all necessary scaffolding, lifting equipment and means of transportation on the construction site.
- 4.7. In the event of dry heating or heating of the plant, the Principal must heed the J+G dry heating and heating regulations and request the Agent to heed these where applicable.

5. Impediments and interruptions

- 5.1. The Principal must notify the Agent in writing without delay of all circumstances made known to him which could delay, impede or interrupt the execution of the works in accordance with the contract.
- 5.2. In the event of exceptional circumstances outside of the risk sphere of the Agent, the timeframe for execution of the works shall be extended accordingly. Exceptional circumstances include all events outside of the influence of the Agent, which impede or delay the performance of the works on an ongoing basis or partially. The agreement of a conventional penalty is not precluded as a result.

6. Claims for defects and their time limitation

- 6.1. The Agent shall perform his works in such a way that they are free from material defects at the time of acceptance. The works are free from material defects at the time of acceptance if it is of the agreed character. If the character is not agreed, the works are free from material defects at the time of acceptance,
 - if they are suitable for the use prescribed in accordance with the contract,
 - or
 - if they are suitable for customary use and demonstrate a character customary for works of the same type which the Principal can expect in accordance with the type of the works.
- 6.2. An agreed character is only considered assured in the legal sense if this has been explicitly agreed in written form between the Principal and the Agent, using the term 'assured'. The Agent is entitled to supply equivalent or better qualities instead of the contractually agreed qualities if the suitability of the object for contractual use is not impaired. This deviation does not constitute a defect.
- 6.3. The Agent is only liable for the materials and components supplied by him and the works executed by him.
- 6.4. The time limitation period for claims for defects is in principle one year analogous to Section 13 No. 4 Clause 2 VOB/B for components coming into contact with fire and exhaust gas insulating components of industrial furnaces.
- 6.5. The timeframe commences upon acceptance. If the acceptance of the works which are ready for acceptance is delayed, the time limitation commences with the first heating, in the absence of this upon commissioning, but at the latest two months after the request for acceptance, in the absence of this following notification of completion.
- 6.6. The Agent is only liable for compensation within the scope of the construction works performed by him.
- 6.7. The Agent shall only be liable for damage in excess of this, in particular due to consequential damage caused by defects and indirect damage such as lost profit, if the defects are due to intent or gross negligence. In these cases, liability for compensation is limited to foreseeable, typically occurring damage. The same applies to consequential damage caused by defects resulting from the absence of an assured characteristic. This does not apply where the defect leads to loss of life, limb or health.

- 6.8. Deviation from a characteristic is only considered defective in the legal sense if this has been agreed in writing between the Principal and the Agent explicitly, using the term 'assured characteristic'.
- 6.9. Normal wear and such external changes which are insignificant for plant operation and damage as a result of improper treatment by third parties or the Principal during drying, commissioning, decommissioning or during plant operation cannot be the subject of claims for defects.
- 6.10. If claims for defects are asserted, the Principal must demonstrate that the operating conditions set out in the contract and the regulations of the VGB standard refractory systems in plants for thermal waste recycling (VGB-S-215-00-2012-11-DE) were complied with. This proof is not necessary if the Principal instead proves that the damage occurring is not connected to the operating conditions. If complaints by the Principal are demonstrably proven to be unfounded, he shall bear the arising costs.

III. Conditions in the event of sales of materials without installation

1. Delivery period

- 1.1. A pre-requisite for commencement of the agreed delivery period is the clarification of all technical issues.
- 1.2. Furthermore, a pre-requisite for compliance with the delivery obligation is the timely and proper fulfilment of the obligation of the Principal. The objection of the unfulfilled contract remains reserved.
- 1.3. Should the Principal be in default of acceptance or if he culpably infringes other duties to cooperate, the Agent is entitled to claim compensation for damage occurring in this regard, including any additional expenditure. Further claims or rights of the Agent remain reserved.
- 1.4. Where the pre-requisites of 1.3. are fulfilled, the risk of coincidental demise or coincidental deterioration of the purchased item is transferred to the Principal at the time he enters into default of acceptance or debtor's default.
- 1.5. The Agent is liable in accordance with the legal requirements where the underlying delivery of materials is a fixed transaction for the purpose of Section 286 Para. 2 No. 4 of the German Civil Code (BGB) or of Section 376 of the German Commercial Code (HGB). The Agent shall also be liable in accordance with legal requirements where, as a result of a delayed delivery for which the Agent is liable, the Principal is entitled to assert that his interest in the further fulfilment of the contract has ceased.
- 1.6. Furthermore, the Agent is liable in accordance with legal requirements where the delayed delivery is due to an intentional or grossly negligent infringement of the contract for which he is liable. Where the delayed delivery is due to a grossly negligent infringement of the contract for which the Agent is liable, the liability for compensation is restricted to the foreseeable damage typically occurring.
- 1.7. The Agent is also liable in accordance with legal requirements where the delayed delivery for which he is liable is due to the culpable infringement of a crucial contractual obligation; however, in this case, the liability for compensation is limited to the foreseeable damage typically occurring.
- 1.8. Other legal claims and rights of the Principal remain reserved.

2. Deviations in volume – alternative qualities

- 2.1. The Agent is entitled to deliver additional or lesser volumes in accordance with the table hereafter:
 - 1-10 + 1 pc
 - 11 - 25 +/- 2 pcs
 - 26 - 50 +/- 3 pcs
 - 51 - 100 +/- 4 pcs
 - > 100 +/- 5% of the volume ordered
- 2.2. The costs of additional volumes must be paid by the Principal in accordance with the agreed unit price.
- 2.3. The Agent is entitled to deliver equivalent or better qualities instead of the contractually agreed qualities. This deviation does not constitute a defect.

3. Liability for defects

- 3.1. A pre-requisite for claims for defects by the Principal is that the Principal has complied properly with his investigatory and notification duties in accordance with Section 377 of the German Commercial Code (HGB).
- 3.2. Where a defect of the purchased item is present, the Agent is entitled to subsequent fulfilment in the form of defect rectification or to delivery of a new, defect-free item at his discretion.
- 3.3. The deviation from a characteristic is only considered defective in the legal sense if this has been explicitly agreed in written form between the Principal and Agent using the term 'assured characteristic'.
- 3.4. Should subsequent fulfilment fail, the Principal is entitled to demand withdrawal or reduction at his discretion.
- 3.5. The Agent is liable in accordance with legal requirements where the Principal asserts claims for compensation which are due to intent or gross negligence, including intent or gross negligence of the representatives or vicarious agents of the Agent. Where the Agent is not guilty of intentional contractual infringement, liability for compensation is restricted to foreseeable damage typically occurring. In the event of damage in excess of this, in particular due to consequential damage caused by defects and indirect damage such as lost profit, the Agent is only liable for compensation if the defect is due to intent or gross negligence.
- 3.6. The Agent is liable in accordance with the legal requirements where the Agent culpably infringes a crucial contractual obligation; however, in this case too liability for compensation is restricted to foreseeable damage typically occurring.
- 3.7. Liability for culpable injury to life, limb or health remains unaffected; this also applies to compulsory liability in accordance with the Product Liability Act.
- 3.8. Insofar as there is no regulation to the contrary above, liability is precluded.
- 3.9. The time limitation period for claims for defects is 12 months, from the time of transfer of risk. This does not apply where the purchased item is customarily used for a structure and has caused the defect, unless materials which come into contact with fire are involved. In this case, the warranty is 12 months where no contractual agreement has been made to the contrary.

4. Overall liability

- 4.1. Liability for compensation exceeding that in 3 is precluded – without consideration of the legal nature of the asserted claim. This applies in particular to claims for compensation due to default on contract conclusion, due to other infringements of obligations or due to tortious claims to compensation for property damage in accordance with Section 823 of the German Civil Code (BGB).
- 4.2. Restriction in accordance with Para. (1) also applies where the Principal demands compensation for useless expenditure in place of the works instead of a claim for compensation.
- 4.3. Where liability for compensation vis-à-vis the Agent is precluded or restricted, this shall also apply with regard to personal liability for compensation of their employees, colleagues, representatives and vicarious agents.