

## **General Terms and Conditions of Sale and Delivery (GTCs) of the following companies, amended 11/13/2018:**

Feintool System Parts Lyss AG  
Industriering 8  
3250 Lyss  
Switzerland

Feintool System Parts Ettlingen GmbH  
Englerstrasse 18  
76275 Ettlingen  
Germany

Feintool System Parts Jena GmbH  
Löbstedter Strasse 85  
07749 Jena  
Germany

Feintool System Parts Oelsnitz GmbH  
Hoffeldstrasse 2  
09376 Oelsnitz  
Germany

Feintool System Parts Most s.r.o  
Průmyslová zóna Joseph  
Havraň 164, 435 01  
Czech Republic

### **§ 1 General – scope**

- (1) The following Terms and Conditions of Sale and Delivery apply exclusively; we do not acknowledge any terms and conditions of the customer that conflict with or deviate from our Terms and Conditions of Sale and Delivery, unless we have expressly agreed to their validity in writing. Our Terms and Conditions of Sale and Delivery also apply if we unconditionally carry out the delivery to the customer in the knowledge of terms and conditions of the customer that conflict with or deviate from our Terms and Conditions of Sale and Delivery.
- (2) Our Terms and Conditions of Sale apply only to entrepreneurs within the meaning of § 14 of the German Civil Code (Bürgerliches Gesetzbuch, BGB).
- (3) Should a provision of these Terms and Conditions or of the further agreements made be or become invalid, this shall not affect the validity of the remainder of the contract. However, this does not apply if adhering to the contract in this case would constitute undue hardship for one party; the parties shall replace the invalid provision with a condition which is as close as possible in terms of economic success.

### **§ 2 Offer – offer documents**

- (1) If the order qualifies as an offer pursuant to § 145 BGB, we can accept it within 2 weeks.
- (2) Orders of the customer are binding for us only after our written confirmation. For the scope of delivery, only a written order confirmation by us is decisive.
- (3) We reserve the rights of ownership and copyrights to illustrations, drawings, plans, calculations and other documents and information of both tangible and intangible nature, including in electronic form. This also applies to written documents which are designated as “confidential.” Before they are passed on to third parties, the customer requires our express written consent.

### **§ 3 Prices – terms of payment**

- (1) Unless otherwise stated in our order confirmation, our prices are in euros and FCA (Free Carrier) pursuant to INCOTERMS 2010, excluding packing, which is invoiced separately.
- (2) The statutory value added tax is not included in our prices; it will be indicated separately in the invoice at the statutory rate on the date of invoicing.
- (3) Deduction of discounts requires special written agreement.
- (4) Unless otherwise stated in our order confirmation, the purchase price is due net (without deduction) within 30 days of the date of invoicing. The statutory rules regarding the consequences of late payment apply.
- (5) The customer is only entitled to offsetting rights if its counterclaims are legally established, undisputed or acknowledged by us. Furthermore, it is only authorized to exercise a right of retention insofar as its counterclaim is based on the same contractual relationship. In particular, the customer is not authorized to reduce the delivery price owed to us by means of asserted counterclaims not recognized by us or not legally binding against us.

### **§ 4 Delivery time**

- (1) Delivery times and delivery dates are only binding with express written agreement. The beginning of the delivery time specified by us presupposes the clarification of all commercial and technical questions.
- (2) Compliance with our obligation to deliver further requires the timely and proper fulfillment of the obligations and responsibilities of the customer. If this is not the case, the delivery time will be extended accordingly. The right to object to unfulfilled contracts remains reserved.
- (3) The time of delivery is extended accordingly in the event of labor disputes, in particular strikes and lockouts, as well as in the event of unforeseeable obstacles for which we are not responsible, e.g. acts of God, measures of public authorities, no-fault delay in the manufacture of vendor parts or raw materials or operational disruptions, insofar as such obstacles have a significant influence on the production or delivery of the delivery item. We will notify the customer of the beginning and end of such circumstances as soon as possible. In the case of the existence of such obstacles, the customer is not entitled to any claims from us due to the delay.
- (4) If the customer is in default of acceptance or culpably violates other obligations to cooperate, we are entitled to demand compensation for the damage incurred in this respect, including any additional expenses. Further claims or rights remain reserved.
- (5) Provided that the conditions in subsection (4) are given, the risk of accidental loss or deterioration of the purchased item passes to the customer at the time at which it enters default of acceptance or payment.
- (6) We are liable pursuant to statutory provisions insofar as the underlying bill of sale is a fixed transaction within the meaning of § 286 (2) (4) BGB or § 376 of the German Commercial Code (Handelsgesetzbuch, HGB). We are also liable pursuant to statutory provisions insofar as the customer is entitled to assert that its interest in the further performance of the contract has ceased to exist as a consequence of a delay in delivery for which we are responsible.
- (7) Furthermore, we are liable pursuant to statutory provisions insofar as the delay in delivery is based on an intentional or grossly negligent breach of contract for which we are responsible; faults of our representatives or vicarious agents are attributable to us. If the delay in delivery is based on a grossly negligent breach of contract for which we are responsible, our liability for damages is limited to the foreseeable, typically occurring damage.
- (8) We are also liable pursuant to statutory provisions insofar as the delay in delivery for which we are responsible is due to the culpable breach of a material contractual obligation; in this case, however, the liability for damages is limited to the foreseeable, typically occurring damage.

### **§ 5 Transfer of risk – packing costs**

- (1) Unless otherwise stated in our order confirmation, delivery is agreed as Free Carrier (FCA) pursuant to INCOTERMS 2010.
- (2) Separate agreements apply to the return of packing materials.

- (3) If the customer so wishes, we will cover the delivery by transport insurance; the costs incurred in this respect shall be borne by the customer.

## **§ 6 Liability for defects**

- (1) Warranty claims of the customer presuppose that it has duly fulfilled its obligations under § 377 HGB to examine and give notice of defects.
- (2) Insofar as there is a defect in the purchased item, the customer is entitled to choose between subsequent performance in the form of a remedy of defects or delivery of a new faultless item. In the case of remedy of defects or replacement delivery, we are obliged to bear all expenses required for the purpose of subsequent performance, in particular transport, travel, labor and material costs, provided these are not increased by the purchase item being moved to a place other than the place of performance.
- (3) If the subsequent performance finally fails, the customer is entitled, at its discretion, to demand withdrawal or reduction.
- (4) We are liable pursuant to statutory provisions insofar as the customer asserts claims for damages based on intent or gross negligence, including intent or gross negligence on the part of our representatives or vicarious agents. Unless we are charged with intentional breach of contract, the liability for damages is limited to the foreseeable, typically occurring damage.
- (5) We are liable pursuant to statutory provisions insofar as we culpably breach a material contractual obligation; in this case too, the liability for damages is limited to the foreseeable, typically occurring damage.
- (6) Insofar as the customer is otherwise entitled to compensation for the damage instead of the service due to a negligent breach of duty, our liability is limited to compensation for the foreseeable, typically occurring damage.
- (7) Liability for culpable injury to life, body or health remains unaffected; this also applies to indispensable liability under the Germany Product Liability Act.
- (8) Unless otherwise stipulated above, liability is excluded.
- (9) The limitation period for claims for defects is 12 months from the transfer of risk. This does not apply if the purchased item is usually used for a building and caused the defect.
- (10) The period of limitation in the case of a delivery recourse pursuant to §§ 478, 479 BGB remains unaffected; it is five years from the delivery of the defective item.

## **§ 7 Total liability**

- (1) Further liability for damages as provided for in § 6 is excluded – regardless of the legal nature of the asserted claim. This applies in particular to claims for damages arising from negligence upon conclusion of the contract, due to other breaches of duty or due to tort claims for compensation for material damage pursuant § 823 BGB.
- (2) The limitation under subsection (1) also applies insofar as the customer, instead of claiming compensation for the damage, demands compensation for useless expenditures instead of performance.
- (3) Insofar as liability for damages to us is excluded or limited, this also applies with regard to the personal liability for damages of our employees, workers, staff, representatives and vicarious agents.

## **§ 8 Retention of title**

- (1) We retain title to the purchased item until receipt of all payments from the delivery contract. In the case of a breach of contract by the customer, particularly default of payment, we are entitled to repossess the purchased item. The repossession of the purchased item by us constitutes a withdrawal from the contract. After the return of the purchased item, we are entitled to dispose of it; the proceeds shall be credited against the customer's debts less reasonable disposal costs.

- (2) The customer is obliged to handle the purchased item with care; in particular, it is obliged to insure it at its own expense against damage caused by fire, water and theft to the reinstatement value. If maintenance and inspection work is required, the customer must carry it out on time at its own expense.
- (3) In the event of seizure or other interventions by third parties, the customer must immediately notify us in writing so that we can file an action pursuant to § 771 ZPO. Insofar as the third party is not in a position to reimburse us for the legal and out-of-court costs of a claim pursuant to § 771 of the German Code of Civil Procedure (Zivilprozessordnung, ZPO), the customer is liable for the loss incurred by us.
- (4) The customer is entitled to resell the purchased item in the ordinary course of business; however, it hereby assigns to us all claims amounting to the final invoice amount (including VAT) of our claim arising from the resale to its customers or third parties, irrespective of whether the purchased item was resold with or without processing. The customer remains authorized to collect this claim even after the assignment. Our authority to collect the claim itself remains unaffected. However, we undertake not to collect the claim as long as the customer meets its payment obligations from the proceeds collected, does not default on payment and, in particular, no application is made for the opening of a settlement or insolvency and payments are not ceased. However, if this is the case, we may demand that the customer notify us of the assigned claims and their debtors, provide all information necessary for collection, hand over the associated documents and notify the debtors (third parties) of the assignment.
- (5) The processing or transformation of the purchased item by the customer is always made for us. If the purchased item is processed with other items not belonging to us, we acquire co-ownership of the new item in the ratio of the value of the purchased item (final invoice amount, including VAT) compared to the other processed items at the time of processing. Moreover, the same applies to the item resulting from processing as to the purchased item delivered under reserve.
- (6) If the purchased item is inseparably mixed with other items not belonging to us, we acquire co-ownership of the new item in the ratio of the value of the purchased item compared the other mixed items at the time of mixing. If the mixing takes place in such a way that the customer's item is to be regarded as the main item, it is agreed that the customer assigns proportional co-ownership to us. The customer shall maintain the resulting sole ownership or co-ownership for us. This maintenance is free of charge.
- (7) The customer shall also assign to us the claims required to secure our claims against it, which arise against a third party from the connection of the purchased item with a piece of land.
- (8) We undertake to release the collateral to which we are entitled at the request of the customer to the extent that the realizable value of our collateral exceeds the claims to be secured by more than 10%; the selection of the collateral to be released is our responsibility.

## **§ 9 Place of jurisdiction – place of performance**

- (1) The place of jurisdiction for both parties is the place of business of the Feintool company to which the order is directed or, at our discretion, the place of business of the customer.
- (2) The law of the Federal Republic of Germany applies; the validity of the UN Convention on Contracts for the International Sale of Goods is excluded.
- (3) Unless otherwise stated in our order confirmation, our place of business is the place of performance.