

General terms of sale and delivery

Fey Lamellenringe GmbH & Co. KG

§ 1 Contract conclusion/Scope

Our general terms of sale and delivery shall apply exclusively to all contracts, including estimates, additional services, advice and information. We shall not accept contradictory terms of the Customer or such terms which differ from our general terms of sale and delivery unless we have expressly agreed to them in writing. Our terms of sale shall apply even if we complete the delivery to the Customer without reservation in the knowledge that the Customer has contradictory or different terms to our terms of sale and delivery. All agreements made between us and the Customer for the fulfillment of the contract must be set out in writing (written form requirement). Our terms of sale shall only apply to enterprises (§ 14 of the German Civil Code [BGB]), legal persons under public law or a special fund under public law in the sense of § 310 Paragraph 1 of the German Civil Code [BGB].

§ 2 General

1. Your attention is expressly drawn to the information in the Fey product catalogues together with our technical questionnaire and about the correct design and installation of the laminar rings. If anything is unclear it is essential that you contact our technical office.
2. If there are no processing and machining requirements specially requested from the Customer and accepted by us in writing, all laminar rings manufactured at our premises shall be designed to comply with our production standards and factory standards. All inquiries, quotation details, manufacturing processes and quality-relevant action relating to our products will be treated and documented pursuant to the quality guidelines set out in DIN EN ISO 9001:2008 and ISO/TS 16949:2009.
3. Property and durability guarantees of any kind shall be expressly not accepted. A guarantee of function shall not be accepted.

§ 3 Quotation/Quotation documents

1. Our quotation shall be non-binding unless specified to the contrary from the order confirmation.
2. Every inquiry and every quotation shall be confirmed in writing by use with a price and lead time. The purchase order text, dimension details and drawings to customers' specifications shall be binding for us; we shall not be obliged to check these details.
3. We reserve title and copyrights to illustrations, drawings, calculations, technical and other documents. All documents must be treated as strictly confidential and may not be copied or disclosed to third parties without our express consent.

§ 4 Prices, terms of payment

1. The prices set out in our written order confirmation plus statutory value-added tax shall apply.
2. Unless specified to the contrary in the order confirmation, our prices shall be "ex-works" (Incoterms 2010), excluding packaging; this shall be invoiced separately.
3. The following shall apply unless specified to the contrary in the order confirmation: Discount of 2% shall be granted for payments made within 14 days of the invoice date. The purchase price shall be due for payment on delivery. The specification of terms of payment in the invoice shall not constitute deferment.
4. The customer shall only be entitled to set off against the invoice if its counter-claims have been established by a court of law, are undisputed or have been acknowledged by us. The same shall apply to exercising rights of retention.

§ 5 Lead times, delivery, transfer of risk

1. The start of the lead time we specify shall assume that all technical matters and design details have been clarified.
2. Compliance with our duty to deliver shall also assume the prompt and correct fulfilment of the customer's duties. We reserve the right to claim that the contract has not been fulfilled.
3. Shipment will be made without any notification of dates unless a separate agreement has been made. Unless otherwise agreed, we shall decide on the method of shipment.
4. We reserve the right to make part shipments.
5. In the event of our being in default with the delivery, we shall accept liability for each week or part of a week of the default by means of the payment of lump sum default compensation in the amount of 0.5% of the goods values, subject to a maximum of 5% of the goods value. We reserve the right to provide evidence that the customer did not suffer any damage or suffered much lower damages than the above lump sum. The customer's rights from § 8 and our statutory rights, particular relating to the exclusion of our duty to deliver (for example due to the service and / or refuelling being impossible or unreasonable) shall not be affected.
6. Package shall be charged at cost. The packaging shall be recyclable and no returns thereof shall be accepted.

§ 7 Inspection duty and complaints, warranty

1. Claims for defects by the customer shall assume that it has correctly complied with its inspection and complaint duties set out in § 377 of the Germany Civil Code [BGB].
2. In the event that the goods are defective, we shall initially be obliged and entitled to refinish or replace the goods at our discretion, with a choice being made within a reasonable period of time. In the event that this fails, in other words it is impossible, unreasonable, refused or there is an unreasonable delay in the refinishing or replacement delivery, the customer may cancel the contract or reduce the purchase price by a reasonable amount.
3. Claims by the customer for compensation or the reimbursement of futile expenses shall only exist as described in § 8 and shall otherwise be excluded.

§ 8 Compensation

1. We shall accept liability for compensation, regardless of the legal grounds, in the event of malice or gross negligence, including malice or gross negligence on the part of our representatives or agents. In the event of simple negligence, we shall only accept liability for the following:
 - a) Death, physical injury or health impairment
 - b) Damages caused by the breach of a major contract duty (a duty whose fulfilment makes the implementation of the contract possible in the first place and on compliance with which the party to the contract regularly depends and should be able to depend).
2. Unless we are accused of a malicious breach of contract, our liability for compensation shall be limited to the foreseeable damage which would typically occur. Compensation claims lodged by the customer due to contract penalties imposed by the customer's contract partners, shall not be foreseeable or typical for us in any event in the sense described above.

3. Any compensation claims lodged by the customer, regardless of their legal grounds, directly or indirectly linked to the goods and their delivery, shall also be excluded unless the above states otherwise.
4. The limitation set out in § 8.3 shall also apply if the customer demand the reimbursement of futile expenses instead of a claim for compensation for damages rather than the delivery of the goods.
5. If our liability for compensation is excluded or limited, this shall also apply to the personal liability for compensation of our staff, workers, colleagues, representatives and agents.
6. The limitations of liability set out above shall not apply if we maliciously fail to mention a defect or we have accepted a guarantee for the property of the goods. The same shall apply to claims by the customer under the Product Liability Law.

§ 9 Statute of limitations

1. In contrast to § 438 Paragraph 1 No. 3 of the German Civil Code [BGB] the statute of limitations period for claims for actual and legal defects shall be one year from the transfer of risk. If an acceptance procedure has been agreed, the statute of limitations period shall commence on the date of the acceptance procedure.
2. The above statute of limitation periods for the sale of goods law shall also apply to contractual and non-contractual compensation claims by the Customer due to a defect on the goods unless the application of the standard statutory statute of limitations (§§ 195 and 199 of the German Civil Code [BGB]) would result in the individual case being statute-barred sooner. The statute of limitations periods in the Product Liability Law shall be unaffected in any event. Otherwise the statutory statute of limitations periods shall apply exclusively for compensation claims by the Customer as described in § 8.
3. The statute of limitations period in the event of delivery recourse under §§ 478 and 479 of the German Civil Code [BGB] shall not be affected.

§ 10 Reservation of title

1. We shall reserve title to the supplied goods until all payments from the contract of supply have been received. If the Customer breaches the contract, in particular if it is in default with payments, we shall be entitled to retake possession of the goods. Retaking possession of the goods by us shall include the cancellation of the contract. After retaking possession of the goods we shall be entitled to dispose of them; the proceeds of such disposal shall be set off against the debts of the Customer (minus reasonable disposal costs).
2. The Customer undertakes to treat the supplied goods with care; in particular it undertakes to insure them adequately at its own expense against fire, water and theft at their new value. If maintenance and inspection work is required, the Customer must complete this work promptly at its own expense.
3. In the event of seizures or other intervention by third parties the Customer must notify us immediately in writing so that we can claim our rights promptly if necessary. If the third party is unable to reimburse the required legal prosecution costs, the Customer shall be liable for any loss we incur.
4. The Customer shall be entitled to resell the goods as part of its normal business; however, it hereby assigns all accounts receivable up to the grand total of our invoices (including value-added tax) accrued by it from the resale against its clients or third parties regardless of whether the goods were resold without or after being processed. The Customer shall remain authorised to collect these receivables even after the assignment has been made. Our authority to collect the account receivable ourselves shall not be affected by this. We undertake, however, not to collect the receivables as long as the Customer meets its obligations using the received proceeds, does not fall into default and in particular as long as no application is made to open insolvency proceedings or the Customer is declared insolvent. If this is the case, we may demand that the Customer notifies us of the assigned receivables and their debtors, provides all the information required to collect the receivables, issues the documents required for this purpose and notifies the debtors (third parties) of the assignment.
5. If the supplied goods are processed or modified by the Customer, this work shall always be carried out on our behalf. If the supplied goods are processed, connected or inseparably mixed with other items which do not belong to us, we shall acquire co-title to the new item proportionate to the value of the goods (invoice total including value-added tax) to the other processes / mixed items at the time of the processing or mixing procedure. The same shall also apply to the goods resulting from the processing as for the goods supplied with reservation of title.
6. We undertake to release these securities at the request of the Customer if the realisable value of our securities exceeds the receivables they secure by more than 10%; we shall be solely responsible for selecting which securities to release.

§ 11 Place of jurisdiction, place of fulfilment, applicable law, severability

1. If the Customer is a businessman, the place of jurisdiction for any disputes arising from the business relationship shall be the Customer's registered office or our registered office at our discretion.
2. Unless specified to the contrary in the order confirmation, our registered office shall also be the place of fulfilment.
3. The laws of the Federal Republic of Germany shall apply exclusively with the exclusion of the UN Convention on Contracts for the International Sale of Goods.
4. If one or more clauses in these terms are invalid, this shall not affect the validity of the other clauses. The parties hereby agree that the invalid clause shall be replaced by a clause which comes as close as possible to the sense and objective of the invalid clause.

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