

Terms and Conditions of Sale, Delivery & Service

§ 1 General reference

These Terms and Conditions constitute a binding contract between Purchaser and AFE Airfilter Europe GmbH referred to herein as "Seller" and are referred to herein as either "Terms and Conditions of Sale, Delivery & Service" or this "Agreement". Customer accepts these Terms and Conditions by making a purchase from or placing an order with Seller or engaging Seller to perform or procure any services and/delivery. These Terms and Conditions are subject to change without prior notice, except that the Terms and Conditions posted on the Site at the time Customer places an order, unless otherwise agreed in writing by Seller and Customer.

All sales, deliveries, services and offers shall be deemed to be made solely upon the basis of these conditions. These conditions shall be deemed to have been acknowledged with acceptance of the goods or services at the latest. Any counterclaims on the part of the purchaser and references to his own terms of business or purchasing are herewith deemed ineffective. All divergences from these conditions shall require our own written confirmation to obtain validity.

§ 2 Offers, contract ratifications and transaction documents

2.1 All offers are without obligation and subject to change including technical changes in form, colour and/or weight remain within acceptable limits.

2.2 With the Purchase Order, the Purchaser confirms his intention to acquire the ordered products. Delivery of the product or a written statement expresses the acceptance of the incoming order.

2.3 The ratification of the contract is subject to the correct and timely delivery by our own supplier. The Purchaser will be informed immediately about any changes, delays or inability to supply.

2.4 Oral information or details in catalogues, brochures, leaflets, announcements, commercial mail, pictures or pricelists about general measurements, services and aptitude etc. do not warrant the validity of the stated characteristics unless confirmed in writing prior to the Purchaser's order. However all effort to keep the information accurate and up to date has been taken by the Seller.

2.5 The Seller retains the right of property and copyright of all pictures, drawings, pricelists, calculations and other pertaining documents. These documents cannot be transmitted to any third party except with the Seller's expressive written permission. As soon as the Seller of these standard terms has delivered the merchandise according to drawings, models, patterns, plans or any other documents of the ordering party, the Purchaser is responsible to safeguard copyright and the right of property and take care that these are not violated by any third party. In case a third party claims omission, particularly in the manufacture and delivery of such goods, the Seller retains the right to terminate any further activity, and, in case of indebtedness demand restitution of damage. The Purchaser also accepts full responsibility for any related claims on part of a third party, releasing us thereby of any responsibility.

§ 3 Invoice and terms of payment

3.1 With exception of orders based on agreed special prices, goods will be invoiced at list prices in force on the day of dispatch ex work without packaging, postage, freight or any other cost of shipment, insurances and custom fees. Legal taxes of statutory value added tax apply.

3.2 Prices are subject to modification if after ratification of the contract of purchase costs rise or fall, especially due of tariff agreements on salaries or increase in the price of raw materials. These are to be documented and submitted to the Purchaser on demand.

3.3. The Purchaser is liable to pay the price of purchase within 30 days of reception of the product by bank transfer, unless other terms of payment have been agreed. If the Purchaser pays later than the agreed terms of payment the Seller is entitled to claim 8% interest of the basic interest rate. The Seller reserves the right to apply a higher value of further delays.

3.4 All bank fees have to be borne by the customer.

3.5 A payment counts as received as soon as the amount of the transfer is at disposal of the Seller.

3.6 If the Purchaser is in delay with the payment, or a letter of credit is rejected or in case of insolvency, all other claims, including those which are due at a later date, become void and invalid immediately.

3.7 If a deterioration of the financial credibility of the Purchaser becomes evident and/or previous delay in payment has occurred, the Seller reserves the right to demand payment before delivery or other guarantees of payment.

§ 4 Claims

It is the responsibility of the Purchaser to check the product on hidden defects and to notify the Seller a period of 4 days after receipt of the goods.. In case of damaged packaging and other clear visible damages, the consignment has returned directly on receipt or the Seller is to be informed immediately. For any damage cause during transportation the carrier is liable. The carrier has to be informed directly, damages have to be confirmed by the driver, visible damaged goods when accepted must be kept separately and the Seller informed immediately. Not properly recorded or late reported shipping damage will not be replaced. The damaged goods have to be kept available for inspection by the carrier or the Seller or sent back free of charges to the Seller on request. The same applies in case of complaints or defects. The Seller do not accept freight forwarded returns unless the Seller has approved in writing. Approved returns have to be sent to the Seller's office address, carriage free.

§ 5 Right to retract

5.1 The Seller of these standard terms shall be released from contractual delivery obligation for a reasonable period, if he is prevented or delayed in delivering the goods in case of unavailability of raw material or insufficient supply from the Seller's supplier and the situation with the Seller's supplier can be proven to the Purchaser on demand.

5.2 The same applies in case of force majeure which prevent the Seller from complying with contractual obligations because of unpredictable serious circumstances beyond control like war, strike, lockouts, political unrest, transportation obstacles, governmental measures, company disruptions, damage through fire and so forth which make delivery impossible or excessively difficult.

5.3 The Seller also reserves the right to retract from the contract if a significant deterioration of the Purchaser's credibility has become evident and is likely to put terms of payment on risk, or if the client has submitted dishonest financial statements

5.4 Cancellations of already ordered goods are possible in general for goods which are marked as 'fast selling products' stock type in our pricelist. Goods which are not these stock types or special or customised goods can only be cancelled upon consultation with the Seller and upon a written confirmation from the Seller. The Seller reserves the right to charge any cost which have already occurred for the production of these goods.

5.5 For the return of goods the following should apply:

- Return of goods is only possible if the goods and packaging are in good order and unused condition for items which are wrongly delivered or has valid complains and defects. The return of customised labelled goods is subject to our acceptance. All returns have to be sent carriage free the Seller's office address.
- Only goods which are marked as 'fast selling products' stock type (please see Seller's latest price list) can be returned. For checking and restocking a charge of 15% of the net value of the goods will be made to the purchaser
- Goods which are not 'fast selling products' stock type and which have been sourced order-related by the Seller can only be returned on the Seller's written agreement and are subject to the agreed reimbursement with the Purchaser prior to returns.
- Goods which have been produced on the Purchaser special request can not be returned

§ 6 Term of delivery, delay and non contractual service

6.1 Indicated and confirmed terms of delivery on the Seller's part are only approximate. Delivery shall be understood to be correct and in time, if it is complied with within 2 weeks after the date of the readiness for shipment has been announced.

6.2 For delay of dispatch caused by § 5 section 1 and 2, term of delivery are extended accordingly.

6.3 The right of the Purchaser to demand restitution of damage for delay of delivery or non contractual or deficient service incurred by the Seller is conditioned that it is caused by:

- a) irresponsible negligence of non essential contractual obligation as well as
- b) wilful and grossly irresponsible neglect of contractual duties by simple service personal.

In these cases liabilities are due for each week of delay for an overall delay restitution of 1% of the corresponding order value limited to a total restitution of 5% of the value of delivery. The Purchaser party has no right to further claims due to delays. The Seller of this agreement reserves the right to prove that delay of shipment has caused none or less harm to the merchandise than claimed by the ordering party. Obligation for restitution remains limited to contractually typical and plausibly foreseeable damage.

6.4 Any delay in acceptance of the merchandise of the ordering party, as well as neglect of other obligations of participation makes it in the right of the Seller to demand restitution of damage, including possible additional costs. This applies equally to coincidental loss of merchandise or coincidental worsening of sales, counting from the date of delay of acceptance of the ordering party.

§ 7 Transfer of Risks

7.1 The risk of damage or loss or deterioration of goods is transferred to the transport agent as soon as the merchandise has been handed over to the transport agent, or whoever signs responsible for transportation of the merchandise, be it an individual person or an institution.

7.2 For the transfer it is indifferent, if the Purchaser delays reception of the merchandise. If shipment is delayed due to circumstances the Purchaser is answerable for, the Purchaser bears the risk, starting the day of readiness of order has been announced.

§ 8 Warranty of defects

8.1 The Seller of these standard terms assumes responsibility for any defect of manufacturing of the merchandise and shall be entitled to remedy or substitute the delivered product. The Seller is not answerable for claims for additional transportation-, material-, work costs due to an increase of costs caused by the request of the Purchaser to deliver the merchandise to another place than the previously agreed for the original shipment, unless the relocation of the delivery of the merchandise responds to a specific purpose.

8.2 If subsequent fulfilment of the replacement order fails, the Purchaser is principally entitled to demand a reduction of payment or to retract from the contract. This does not apply to minor contractual contradictions or defects, which do not release the Purchaser from contractual obligations.

8.3 The Purchaser is obliged to notify any defect within of 4 days in writing, otherwise no demands of guarantee can be put forth. For compliance with legal terms the timely mailing of the notification suffices. The Purchaser bears the full weight of documentation and to prove in particular all alleged defects and conditions of request, the time the defect has been detected and timely submission of defect complaint.

8.4 Remuneration of damage remains limited to the difference between price of purchase and value of defective good. Further claims of the ordering party are excluded. Therefore the imposer of these standards does not sign responsible for any damage on the object of delivery itself. The imposer of these standard terms shall not be liable for any profit or property losses suffered by the ordering party. This does not apply if the imposer of these standards has incurred in malicious contractual violation.

8.5 The statutory warranty period amounts to one year after dispatch of merchandise: in case of used goods the prescription is one year from dispatch of merchandise. This does not apply if the purchaser has not notified defects on time. Statutory warranty periods also refer to the instalments of products on construction sites.

8.6 Valid characteristics of merchandise are principally only those which are included in the product description of the manufacturer. Public declarations, commercials or announcements of the manufacturer do not represent contractual valid notification about the characteristics of the product.

8.7 If the Purchaser receives a defective or incorrect instruction manual the Seller is only obliged to deliver a complete and correct instruction manual under the condition, that the error of the instruction manual contradicts a correct instalment.

8.8 Legal manufacturing guarantees in judicial terms are not subject to this contract and do not form part of the present document

8.9 The Seller of this agreement is released from any liability for damaged goods caused by non observation of operating and maintenance instructions or if modifications have been performed on the merchandise, parts replaced or spare parts used, which do not comply with original standard specifications.

§ 9 Limits of liability

9.1 No warranty is extended for minor, non-essential negligence of contractual duties. This applies equally to minor negligence of the Seller's legal representatives or auxiliary personal.

9.2 These previously described limitation of liability shall not apply to demands of the Purchaser for assured product warranty. Liability is incurred for personal injuries or loss of life of the purchaser.

9.3 Demands for remedy of damage for defective merchandise on part of the Purchaser prescribe after the period of one year since dispatch of goods. This does not apply if the seller has incurred in gross violation or is responsible for personal injuries or loss of life of the Purchaser.

§ 10 Reservation of ownership

10.1 Any merchandise delivered under the business relationship with the Purchaser shall remain the property of the Seller until full payment of all outstanding amounts has taken place.

10.2 The Purchaser is responsible for correct handling of the merchandise. Additional cost for regular maintenance and inspection are responsibility of the Purchaser.

10.3 If any distress or execution shall be levied by third parties, or in case of destruction of the product, the Purchaser shall be obliged to report it without delay in writing. Change of property rights of the Purchaser to any third party are to be transmitted without delay in writing to the Seller of these terms.

§ 11 Compensations and retention rights

11.1 Compensation of the Purchaser only applies if demands have been legally recognised and accepted by the Seller

11.2 Retention rights can only be exercised in case of contractual equivalent demands

§ 12 Changes and additions

Changes and additions of the contract of delivery require the Seller's written consent for any legal effect.

§ 13 Final provisions / Severability clause

If individual provisions of these standard sales, delivery and payment terms shall be invalid or become ineffective as a whole or in part, including general business conditions, the validity of the remaining provisions shall not be affected in any respect. Provisions which are partially or entirely ineffective shall be replaced by regulations, whose economic success is as close to the ineffective ones as possible.

§ 14 Place of fulfilment / Place of jurisdiction

14.1 This Agreement shall be governed and construed according to the law of the Federal Republic of Germany. Validity of the UN sale of goods laws agreements shall be excluded.

14.2 For legal controversies legal venue shall be Bonn, Federal Republic of Germany. The same applies in case even if the Purchaser has no general jurisdiction in Germany or the business location and place of residence of the Purchaser are unknown at the moment legal complaint.