

## Terms and Conditions of Sale

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[www.stihl.de/agb](http://www.stihl.de/agb)

### 1. General

- 1.1 The following terms and conditions apply to all deliveries to the Buyer. The terms and conditions apply exclusively. Opposing or differing conditions on the part of the Buyer shall not be recognised by us unless we have consented to their application expressly and in writing. Nor shall we be deemed to have accepted differing conditions, if we unconditionally carry out an order in the knowledge that the Buyer has opposing conditions or conditions differing from our terms and conditions.
- 1.2 Verbal declarations made by our representatives or employees require our written confirmation.

### 2. Offers

Our offers are not binding. An order is considered as accepted only when it has been confirmed in writing. The confirmation determines the contents of the order.

### 3. Prices

- 3.1 The prices of our price list having validity at the time of delivery shall apply unless otherwise stipulated.
- 3.2 Unless otherwise agreed, our prices are ex works in EUR excluding sales tax, duty, freight, packing, insurance, etc. These costs shall be borne additionally by the Buyer.

### 4. Packing

The selection of the appropriate packing to be used will be made by us and invoiced at cost.

### 5. Shipment

- 5.1 Shipment is always effected for the account and at the risk of the Buyer. With respect to risk, this also applies if we, by way of exception, bear the shipping costs. Unless otherwise agreed, we shall determine the method and route of shipment.
- 5.2 Special wishes of the Buyer (e.g. accelerated method of shipment, special packing, employing a particular shipping agent) will be followed as far as possible and any additional costs incurred will be charged.
- 5.3 The risk is transferred to the Buyer when we hand over the goods to the shipping agent.

### 6. Delivery

- 6.1 Delivery dates are non-binding unless the binding force of a delivery date is explicitly agreed.. A binding delivery date is considered maintained if the goods have left our works on time or notification of readiness for dispatch has been given in the case of pickup by the customer.
- 6.2 If observance of a binding delivery date is impossible owing to circumstances beyond our control, e.g. acts of God, natural disasters, war, riot, force majeure, shortage of energy or labour disputes at our or our suppliers' works, the delivery date shall be automatically extended by the duration of such circumstances. Should these circumstances last longer than three months, each party to the contract is entitled to rescind.

## 7. Complaints and Defects

- 7.1 Complaints relating to recognisable defects or recognisable incompleteness or incorrect delivery must be made to us immediately in writing, but not later than 7 days after receipt of delivery. Other defects must be notified to us in writing immediately after discovery.
- 7.2 In the event of complaints or defects not being notified within the said period, the goods are deemed accepted. If notification is made in due time, the warranty shall be determined by Clause 8.

## 8. Warranty

- 8.1 The right to make alterations in the design or finish which adversely affect neither the serviceability nor the value of the article is reserved and such changes do not constitute a defect as long as they do not impair usability for the contractually stipulated purpose.
- 8.2 Guarantees are given only in writing.
- 8.3 Should a defect be present, we are entitled to remedy it by removing the defect or by delivering a defect-free item (supply of replacement). We have the right to choose whether to remove the defect or to supply a replacement. Our right to refuse repair or replacement on the grounds of unreasonable expense (Section 439 (3) German Civil Code, BGB) remains unaffected. The Buyer is however entitled to choose at its discretion either to withdraw from the contract or to demand a reduction in the purchase price if the remedy of the defect is unsuccessful, particularly if it is impossible, if we are unable to remedy it within an appropriate amount of time, if we refuse to perform the remedy, or if delays in the remedy are culpably caused by us.
- 8.4 Parts that we replace become our property.
- 8.5 We accept no responsibility for damage which occurs after the passing of risk to the Buyer as a result of unsuitable or improper shipment, faulty assembly or start up by the Buyer or third parties, modifications or attachments not explicitly approved by us, normal wear, faulty or negligent handling by the Buyer or third parties, improper storage, climatic effects, etc.
- 8.6 The Buyer shall allow us the necessary time and opportunity to carry out repairs or supply replacement goods, failing which we shall be released from our liability for defects.
- 8.7 We may refuse to repair or replace the goods as long as the Buyer has not fulfilled all obligations not connected with the defective part of the goods.
- 8.8 The warranty period is 12 months from the date of delivery of the item.
- 8.9 The Buyer's claims to compensation for damages and expenses on the grounds of a defect are governed by Clause 9 of these terms and conditions.

## 9. Claims for Damages and Expenses

- 9.1 If damage is caused through a breach of an obligation by us, we are not liable for compensation for damages or expenses if we prove that we are not responsible for the breach of obligation. If we are responsible for the breach of obligation, we are liable for compensation for damages or expenses in accordance with the statutory provisions, insofar as paragraphs 2 and 3 do not stipulate otherwise.
- 9.2 In the case of minor negligence, our liability for compensation for damages or expenses is excluded. In particular, we are not liable for loss of profit and other financial loss of the Buyer resulting from minor negligence.

- 9.3 The exclusion of liability in accordance with paragraph 2 does not apply to claims arising from a guarantee, in the event of injury to life, body or health, for claims arising from the Product Liability Act (ProdHG) and in the case of a minor negligent breach of essential contractual obligations. However, in the case of a minor negligent breach of contractual obligations whose fulfilment is a fundamental prerequisite for the proper implementation of the contract in the first place and for which compliance may be relied upon as a matter of course by the contractual party (essential contractual obligations), compensation is limited to foreseeable, typical damages.
- 9.4 In so far as our liability is excluded or limited, this shall also apply to the personal liability of our employees, representatives and vicarious agents.

## **10. Rescission in the event of Breach of Duty**

- 10.1 The Buyer shall not be entitled to a right to rescind on the grounds of a service not rendered by us or not rendered in accordance with the contract, if we are not responsible for the breach of duty.
- 10.2 Item 10.1 does not apply, if an absolute right to rescind on the part of the Buyer arises from special agreements (e.g. fixed-date transactions). Furthermore, item 10.1 does not apply in the case of defect goods, in this case the legal requirements of the law relating to sales shall apply, unless otherwise stipulated in these conditions.

## **11. Retention of Title**

- 11.1 The goods supplied by us shall remain our property until the Buyer has discharged all our claims against him from the current business relationship in full. In the case of drafts and cheques, payment is deemed to have been made only when they have been fully honoured.
- 11.2 The Buyer may resell the goods as to which we have retained title in the ordinary course of business unless he is in default or has suspended payments. The Buyer shall neither pledge the goods as security nor place them in escrow.
- 11.3 The Buyer shall notify us immediately of seizures of the reserved goods, enclosing the inventory of goods seized (copy).
- 11.4 If claims exist against third parties arising from the damage or destruction of goods not yet fully paid for, the Buyer undertakes now to assign to us his pecuniary claims therefrom. If the Buyer resells the goods, he undertakes now to assign to us in pending payment of all our receivables, his rights against his customer arising from the resale, including all ancillary rights and securities. If the Buyer's receivables from the resale of the reserved goods are placed in a current account, then the Buyer undertakes now to assign to us his pecuniary claim in the amount of the respective and recognised balance, to the extent of our claims against the Buyer. We shall accept this assignment. The Buyer may collect the claims assigned to us unless the Buyer is in default or has suspended payments.
- 11.5 The Buyer undertakes in any case to co-operate in procuring official approvals or any other formalities insofar as these become necessary.
- 11.6 If the value of the collateral granted to us exceeds our claims on the Buyer by more than 20 per cent, we are obliged to release goods to that extent at the Buyer's request.
- 11.7 If in the case of export deliveries we are required to carry out certain measures in the importing country in order for the retention of title or other rights as described in this paragraph to be effective, the Buyer must notify us accordingly and carry out such measures at his own cost. If the law of the importing country does not permit

retention of title, but allows the Seller to reserve other rights as to the goods supplied, we may exercise all such rights. Insofar as an equivalent guarantee for our claims on the Buyer is not achieved in this way, the Buyer is obligated to provide us with other security for the goods supplied or other collateral at his own cost.

## 12. Payment

- 12.1 Our invoices are payable in the net amount within 30 days from receipt of invoice, unless otherwise agreed in writing. Payments are always applied against the oldest outstanding invoice due.
- 12.2 The Buyer may set off only against those of this claims which are uncontested or recognised by final binding legal judgement.
- 12.3 We accept payments other than cash only upon fulfilment. All payments shall be made free of charges. The Buyer shall bear bank, discount and collection expenses even without express agreement. Payments by bill of exchange require our prior consent.
- 12.4 If the payment due date is exceeded, we are entitled, without notice, to charge the Buyer interest from the date of default in the statutory amount. This interest rate shall be upwardly adjusted if we furnish evidence of a higher actual interest burden.
- 12.5 If a considerable deterioration in the financial circumstances of the Buyer occurs after placement of the order or if a prior deterioration of its financial circumstances comes to our attention after placement of the order, we are entitled at our own discretion to demand either payment in advance or the provision of security. Payments may be made only directly to ourselves or to persons explicitly authorised in writing or by a power of collection. We reserve the right to process orders with a value of less than EUR 50 and orders from customers unknown to us on a cash on delivery basis.

## 13. Place of Performance and Venue

Unless otherwise – e.g. in Distribution Agreements – agreed, the following will apply:

- 13.1 The place of performance for deliveries and services is the location of our supplying factory. The place of performance for payments is Waiblingen.
- 13.2 German law shall be applied with respect to all relations between the Buyer and ourselves. The UN Convention on Contracts for the International Sale of Goods does not apply.
- 13.3 Insofar as legally permissible it is agreed that Stuttgart, Germany, is the exclusive venue for all disputes, including those arising out of drafts or cheques, provided, however, that we reserve the right to bring suit at the location of the Buyer.

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