

Toyoda Machinery Europe GmbH

Conditions of Sale and Delivery

- hereinafter: Toyoda -

I. Basis of a contract

1.

Our business relationships and transactions with companies as defined in § 14, 310 of the German Civil Code (BGB) are always based on our General Terms and Conditions. They shall always apply for all contracts, deliveries, and other performances that we agree with our business partners, customers or clients. Our T&C shall also apply for all future contracts, deliveries and other performances with Toyoda Machinery Europe GmbH, which in the future are substantiated due to a different business relationship, whereby we do not again make reference to our T&C for future contract negotiations, business transactions or in any other manner refer to them. However we reserve the right to change our business conditions with effect for a future additional business relationship with the business partner. In this case we shall provide our T&C in writing.

2.

If an outline agreement exists between the business partner and Toyoda Machinery Europe GmbH, then our General Conditions of Sale and Delivery shall apply for this outline agreement, as well as for the respective individual order.

3.

Order acceptance on our part shall not constitute agreement with conflicting conditions of purchase or other general business conditions of our business partner. These conditions are herewith expressly rejected; they cannot, nor should they become content of the contract to be concluded. This shall also apply in the event that the purchase conditions or general terms and conditions of our business partner are referenced by the business partner in the course of contract negotiations or provided by the business partner in his correspondence, and we in this case shall not have expressly rejected them. In this case, order acceptance on our part shall not constitute agreement with conflicting contract conditions of our business partner. If we desire to deviate from our terms and conditions below to our disadvantage, we shall be obligated to expressly confirm the conditions that are affected by such deviation.

4.

We shall only conclude contracts in accordance with German law. If the registered office of our business partner be located

in a foreign country, neither the law applicable in that country nor the United Nations Convention on Contracts for the International Sale of Goods - CISG, shall apply, if it does not agree with German law. If a business relationship based on a foreign law or on the United Nations Convention on Contracts for the International Sale of Goods - CISG, be agreed between Toyoda Machinery Europe GmbH and our business partner, this shall require an express written deviating agreement.

II. Quotations and conclusion of contract

1.

Our quotations shall always be non-binding and without obligation. This shall also apply if in a quotation sent by us to the business partner a stipulated time is provided for the business partner. This date shall not constitute a legal binding effect to our disadvantage. The right of prior sale shall remain expressly reserved.

2.

Performances offered in the initial correspondence with our business partner shall not constitute a legally binding quotation on our part, but rather are a request to our business partner to submit an appropriate quotation to us (invitation to submit offer). Correspondence and requests on our part that are accepted by the business partner with regards to content - even as commercial letters of confirmation declared as letters of acceptance - are only a legally binding offer to us. Appropriate contracts between Toyoda Machinery Europe GmbH and our business partners shall only come into effect with our written or faxed order confirmation. This shall also particularly apply if our business partners confirm negotiations relative to offered services in the form of a commercial letter of confirmation.

If we send minutes of negotiations to our business partners, then the confirmed content shall remain subject to review. The confirmed recorded content of the negotiation shall only become legally effective, if it is not corrected within 8 working days after receipt of the minutes.

If documents, such as illustrations, drawings, weight and drawing specifications are included with our quotation, then these documents shall only be approximate, unless we expressly designate them as binding in writing. We reserve the right to make changes, unless these changes are of a fundamental nature and the contractual purpose of the delivery is restricted in a manner that is unacceptable for the business partner. We retain the intellectual property right and copyright to included drawings, cost calculations, and other

documents; these documents shall not be forwarded to third parties.

3.

The written agreed prices shall apply with loading on board in Krefeld, or at a different location in Germany that we specify, if it is expressly confirmed by Toyoda Machinery Europe GmbH. Packaging, packaging wage costs, freight, insurance, unloading, postage, and other special performances shall be additionally paid by the business partner. The agreed prices shall not contain the additionally occurring legal taxes, in particular the authoritative value-added tax, which shall be charged in addition.

The loading locations cited above that occur on a case-by-case basis, shall be places of performance.

4.

If a payment condition is not contained in our order confirmation, the agreements below shall apply:

a.

For delivery of machines and equipment the sales price shall be paid as follows:

- 30% of the agreed gross sales price specified on our order confirmation within 10 working days after the date of the order confirmation,
- 40% of the agreed gross sales price specified on our order confirmation within 7 working days after our delivery, as well as
- 30% of the agreed gross sales price (remaining amount) after conclusion of our training and our release for commissioning, to our business account.

b.

Service or other performances with the exception of spare parts deliveries shall be paid within 10 working days after the date the invoice is issued.

c.

For spare parts delivery the appropriate receivable shall be paid net 10 working days after the invoice is issued with 2% discount, otherwise net 30 days after the invoice date.

The crediting of the value of the amounts cited above to our specified account shall be authoritative for timeliness of the payments. Thus our business partner shall be obligated to ensure that he complies with the agreed payment period with due consideration of the bank transfer time.

If the registered office of our business partner is in a foreign country, or if our business partner orders the goods or service for a foreign country, our business partner shall be obligated on first request, to provide a bank guarantee of a major German or foreign bank, which must be included with the business partner's written purchase order.

5.

The business partner shall only be entitled to offset a claim that is due and payable with counterclaims that have been legally asserted, are undisputed, or that are acknowledged by Toyoda.

6.

If the business partner does not honor his payment obligations, or if other circumstances become known that cast doubt on his creditworthiness, all claims - also any bills of exchange accepted on account of payment - shall be immediately due and payable.

7.

In the event of outstanding payments we shall be entitled to make further deliveries and services dependent on complete payment of the outstanding payment. We shall be entitled to refuse our performances, if due to a circumstance that becomes known to us after the contract is concluded, we must doubt whether we will receive the complete counter-performance of the business partner or receive said counter-performance on time, unless the business partner provides the counter-performance or provides adequate security. This circumstance cited above shall particularly apply and be present, if our credit insurer has refused to insure the sales price for payment of the delivery object due to the creditworthiness of the business partner.

8.

Verbal ancillary agreements, changes to the contract, and supplements to the contract shall require our written confirmation in order to be legally effective.

III. Acceptance and transfer of risk

1.

At the latest, the risk shall be transferred to the business partner with completion of loading at the place of fulfillment. This shall also apply if partial deliveries should occur, or if other performances, such as shipping costs, delivery and setup and/or commissioning have been taken over by Toyoda Machinery Europe GmbH. In this case we shall consider desires of the purchaser, however we shall not be obligated to

have the delivery object ensured against transport damage without a special written instruction.

2.

If nothing to the contrary is specified, the acceptance of the delivery object shall occur at the place of performance. The business partner shall be obligated to execute an appropriate acceptance procedure at the place of performance; a schedule date for acceptance shall be agreed. The acceptance shall be on the acceptance date without delay, and if the delivery or performance does not have significant defects, it shall not be refused by the business partner.

3.

If the loading or the acceptance are delayed for reasons for which we are not responsible, then the risk shall be transferred to the business partner from the day of notification of loading, or readiness for the acceptance procedure.

4.

The business partner shall be obligated to accept delivered objects even if they show insignificant defects without prejudice to the rights of the business partner set forth in number IV.

IV. Warranty

We shall be liable for defect in quality and title of the delivery object or services in accordance with the provisions cited below. More extensive claims shall be excluded, and shall be waived by our business partner. We hereby expressly accept this waiver.

1.

The warranty shall be excluded for used objects, unless we have assured a warranty period in writing. Used delivery objects, including accessories, shall be delivered in the condition in which they existed at the time the contract was concluded. A liability for apparent or concealed defects shall also be excluded, unless we have intentionally or through gross negligence concealed known defects.

2.

For new delivery objects the warranty period shall be 12 months from acceptance. At the latest, the warranty period shall begin at the time of delivery to the business partner. The warranty for defect in quality and title shall be limited to subsequent performance. We shall be entitled to provide a replacement delivery. In this respect Toyoda Machinery Europe GmbH shall have the option to provide rectification of the defect free-of-charge or replacement delivery.

3.

We shall be entitled to refuse subsequent performance if it is only associated with unreasonable costs. In this case, instead of subsequent performance, a change of the agreed price or cancellation of the contract or compensation for damages instead of the performance or reimbursement of expenses can be demanded, and only as stipulated in the provision in number V.

Cancellation of the contract and claims for compensation for damages instead of the performance or reimbursement of expenses shall however be excluded if only a minor defect is present.

If only partial deliveries are provided or possible, then our business partner shall only be entitled to return or refuse these performances if the contract is canceled, if the business partner verifies that his interest in partial deliveries has ceased.

4.

The business partner shall be obligated, at his risk, to provide the defective delivery object to us for remedy of defect or replacement delivery, whereby we shall be entitled to the option of determining and specifying the place of repair. Replaced delivery objects or parts thereof shall become our property.

5.

A warranty for defects shall be excluded if defects occur due to: unsuitable or improper use, changes or repair tasks made without our prior consent, faulty installation or commissioning by the business partner or third parties, natural wear, faulty or negligent handling, particularly disproportionate stress, unsuitable operating materials, replacement materials, chemical, electro-chemical, electronic or electrical influences.

6.

Costs that are incurred due to remedy of defect or replacement delivery to the business partner shall be our responsibility. The other costs shall be the business partner's responsibility.

7.

If a defect is rectified by a third party, we shall not be liable for any costs, unless we had refused subsequent performance after an appropriate grace period, or the subsequent performance failed and another subsequent performance attempt would be unreasonable for the business partner.

8.

More extensive claims on the part of the business partner, particularly due to personal injury, for damage to goods that are not an object of the contract, or for lost profit, consequential costs, etc. shall be excluded.

9.

We expressly state that the suitability of the delivery object shall not extend to the application purpose intended by the business partner, if said application purpose deviates from the common use, nor shall properties be assured, unless they are expressly stated as such in the contract. Verbal information, as well as information in our documents do not contain any assurances. Samples, dimensions, DIN provisions, performance descriptions and other information concerning the condition of the delivery object are for specification purposes and are not assured properties. The same shall also apply for minutes of meetings, unless the content of the minutes of meetings shall be expressly confirmed as a binding assurance.

10.

The contract partner shall be obligated to properly examine the delivery object without delay after delivery, at his expense for possible defects and incorrect shipments. Defects or incorrect shipments determined shall be reported by the contract partner to Toyoda Machinery Europe GmbH without delay within 4 working days after receipt of the delivery. Concealed defects shall be reported in writing without delay, at the latest 4 working days after discovery. In all other aspects §§ 377, 378 of the German Commercial Code (HGB) shall remain unaffected.

11.

Any transport damage must be reported to us without delay. The required formalities shall be regulated with the freight carrier by the business partner, particularly all necessary determinations shall be made concerning the granting of rights of recourse relative to third parties.

V. Limitation of liability

The business partner shall not be entitled to any other or more extensive contractual or legal liability claims against us, our legal representatives, or vicarious agents, other than are listed below:

1.

The liability for Toyoda Machinery Europe GmbH and the persons cited above shall be limited in every case of violation

of obligation and impermissible action to intent and gross negligence; the violation of obligation shall be limited to the culpable violation of material contract obligations.

2.

With the exception of intent and gross negligence the liability of Toyoda Machinery Europe GmbH, our legal representatives, and vicarious agents shall be limited to compensation for such damages which are typical of the contract and are foreseeable. The liability shall be limited to the benefits provided by our existing liability insurance policy. If the insurer is not liable to pay, we shall pay compensation limited to the amount of the insurance sum.

3.

Claims for damage compensation on the part of the business partner, due to negligent violation of obligation on our part, on the part of our legal representatives, vicarious agents, or other third parties, whose behavior can be imputed to Toyoda Machinery Europe GmbH in the specific case, shall be excluded. This shall apply, particularly in the cases of negligent defective delivery or negligent default in delivery, if it does not involve violation of a material contract obligation. Moreover, compensation for damage instead of performance in cases of defective delivery shall be excluded if the violation of obligation is minor.

4.

Should liability on the part of Toyoda Machinery Europe GmbH occur as the consequence of defects in the materials purchased from third-party suppliers, the business partner shall first be obligated to assert the claim against the third-party supplier - if necessary legally. We hereby now assign our claims against the third-party supplier to the business partner. If the assertion of legitimate claims should remain unsuccessful in the compulsory enforcement, we shall be liable in the scope cited in the provisions above.

VI. Delivery time

1.

Delivery dates and delivery periods shall always apply as approximate only, and shall not be binding for Toyoda Machinery Europe GmbH. We shall, however, strive to comply with delivery dates and delivery periods. The delivery period shall be considered to be maintained if, up to its expiration date, the delivery object has left our plant, or if readiness to ship has been communicated. The delivery period shall not commence prior to complete receipt of any documents that must be provided by the business partner, or prior to receipt of agreement prepayments.

2.

Force majeure, operational disturbances, delivery periods that are not complied with by upstream suppliers, shortages of raw materials, energy and labor, strikes, lock-outs, difficulty in procuring means of transport, traffic disruptions, dispositions of government agencies, or the lack of government agency approvals or other approvals for execution of the delivery shall exempt us from the performance obligation for the duration of the disturbance, and in the scope of its effect. Nor shall we be responsible for the events cited above, if they occur during an already existing delay.

3.

If unforeseen events as defined in the numbers above significantly change or significantly affect our operation, we shall be entitled to cancel the contract. In this case the business partner shall only be entitled to rights of recourse, more extensive claims, in particular, claims for damage compensation, shall be excluded.

4.

We shall be entitled to provide partial performances, which we can invoice separately.

5.

If we are in default with the performance, then the business partner shall be entitled to withdraw from the contract, if he has set a grace period for Toyoda Machinery Europe GmbH that is appropriate for the delivery, and we allow the grace period to elapse without complying with the conditions set. A period of at least 4 weeks shall be considered appropriate. If the delay is limited to partial performance, then given the prerequisites cited above, the business partner can only withdraw from the entire contract, if he has no interest in the partial performance. On request from Toyoda Machinery Europe GmbH, the business partner shall be obligated to declare whether he will cancel the contract or comply with the contract in spite of the delivery delay. More extensive claims on the part of the business partner - particularly claims for compensation of damage instead of the performance, or damages resulting from delays - shall be excluded, unless specified otherwise in number 6. below.

6.

In the cases in which number 5. of these conditions provides a liability due to delayed delivery, the damage resulting from delay shall be a maximum of 0.5%, or however a maximum of 3% of the value of that part of the total delivery that cannot be used on time due to the delay for each full week of delay.

VII. Offsetting, right of retention

Offsetting with counterclaims shall only be permitted if the counterclaim is undisputed, is legally asserted, or is ready for decision. The business partner can only enforce a refusal of performance or right of retention if the counterclaims of the business partner that serve as the basis of the refusal of performance or right of retention, are based on the contract or are undisputed, legally asserted, or are ready for decision.

VIII. Retention of title

1.

We shall retain title to the good we deliver until payment in full of all receivables arising for the business relationship with the business partner, including all related costs and charges, and until payment of all checks and bills of exchange issued. The retention of title shall extend to the products produced through processing. If our goods have been processed, combined or mixed with other material we shall acquire joint title to the product produced in this manner in the ratio of the value of our goods to the value of the other material. In lieu of transfer of possession, the customer shall keep the products in safe custody on behalf of Toyoda Machinery Europe GmbH without payment with the due diligence of a prudent businessman.

2.

The business partner hereby irrevocably assigns all receivables arising from the sale of the goods to which we are entitled to property rights, to Toyoda Machinery Europe GmbH, in the amount of our receivables arising from the business relationships in the full amount, in any case in the amount of the value of our share of joint title to the sold goods, including all ancillary rights.

3.

If the business partner is capable of honoring his obligations to Toyoda Machinery Europe GmbH and ensures the extended retention of title, he shall be entitled to sell the goods subject to retention of title that are our property, in proper business trading.

4.

The business partner shall only be authorized to collect the assigned receivables in proper business trading and only revocably. This authorization may be revoked only if the business partner fails to duly perform his obligations under this contract, in particular his payment obligation, is incapable of payment, or is over-indebted, or if judicial

insolvency proceedings against his assets have been initiated. In these cases we shall be authorized to cancel the contract and take the goods that are subject to retention of title into our possession, after an appropriate grace period elapses without success. The business partner shall be authorized to surrender the goods. Any proceeds arising from the sale of the goods subject to retention of title that are taken back shall be credited against the liabilities of the buyer - minus reasonable disposal costs. In the case of revocation the business partner shall be obligated to provide us without delay, at the latest after 4 working days after receipt of our request, the name and complete address of the company of his debtor.

5.

In the case of revocation the business partner, in accordance with number 4. above, shall be obligated to report the assignment of the receivable to Toyoda Machinery Europe GmbH, to his debtor, within 4 working days after receipt of our request. However, we shall also be entitled to notify the debtor of our business partner of the agreed extended retention of title, and to enforce it.

6.

If third-party claims to the goods subject to retention of title or to the assigned receivables are enforced, the business partner shall be obligated to notify Toyoda Machinery Europe GmbH of this event, at the latest within 4 working days of his knowledge, and to transfer the documents necessary for intervention. The costs of intervention, which also include any legal costs, shall be the responsibility of the business partner in the internal relationship between Toyoda Machinery Europe GmbH and the business partner.

7.

We shall be authorized to ensure our delivered goods subject to retention of title against theft, fire, water, and other damage at the expense of the business partner, unless the business partner himself has verifiably arranged for appropriate insurance coverage.

8.

We shall be obligated to release the securities to which we are entitled on the business partner's request should their value exceed the claims to be secured, by more than 20%.

IX. Place of performance, place of jurisdiction

1.

Place of performance for payment and delivery of goods shall be Krefeld, or a location cited by Toyoda Machinery Europe GmbH in the contract.

2.

If the business partner is a merchant, a legal entity under public law or a special fund under public law, then Krefeld shall be the exclusive place of jurisdiction for all legal disputes, including proceedings involving bills of exchange or checks.

X. Severability clause

If individual provisions of these conditions or a provision that is included in these conditions in the future should be legally invalid in whole or in part, or not executable, or if it should later lose its legal effectiveness or executability, then this shall not affect the validity of the other provisions. The shall also apply if it is determined that the conditions have a loophole. Instead of the ineffective or non-executable provisions or for correction of the loophole, an appropriate regulation shall apply that most nearly approaches the intent of the parties or that which they would have intended in accordance with the spirit and purpose of the conditions, if they had considered it when concluding this contract, or when a provision was later included.

**Toyoda Machinery Europe GmbH
Krefeld
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